



**Report of the  
Comptroller and Auditor General of India  
on**

**Revenue Sector  
for the year ended March 2016**



**Government of Odisha**  
**Report No. 9 of the year 2016**

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## **PREFACE**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2016 has been prepared for submission to the Governor of Odisha under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2015-16 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports. Instances relating to the period subsequent to 2015-16 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.





## OVERVIEW

This Report contains 24 paragraphs including one Performance Audit (PA) relating to Issue of Licences, Permits and Passes by Excise Department. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the Government for the year 2015-16 amounted to ₹ 68,941.44 crore against ₹ 56,997.88 crore in the previous year. Of this, 45.31 *per cent* was raised by the State through tax revenue (₹ 22,526.96 crore) and non-tax revenue (₹ 8,711.24 crore). The balance 54.69 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (₹ 23,573.78 crore) and Grants-in-Aid (₹ 14,129.46 crore).

(Paragraph 1.1.1)

Test check of the records of assessment / collection of Value Added Tax including Sales Tax, Entry Tax, Professional Tax etc., Motor Vehicles Tax, Stamp Duty and Registration Fees, State Excise Duty, Mining Receipts during the year 2015-16 revealed under assessment / short-levy / loss of revenue and other observations amounting to ₹ 2,311.68 crore in 3,48,849 cases.

(Paragraph 1.9)

### II Value Added Tax and Entry Tax etc.

The audit of "Pendency and Disposal of Review and Appeal cases in Commercial Tax Department and their impact on revenue collection" revealed several deficiencies. While there was absence of executive instructions for time-bound disposal of appeal cases till October 2012, appellate authorities unnecessarily delayed the disposal of appeal cases which resulted in blocking of substantial amount of Government revenue affecting the State exchequer.

(Paragraph 2.4.3.1)

The reasons for admitting appeal cases after delays ranging between 169 and 919 days, in contravention of the provisions of the Act, were not on record.

(Paragraph 2.4.4.1)

The appeal cases were admitted by the first appellate authorities without receipt of ₹ 0.54 crore towards mandatory deposit of 20 *per cent* of the disputed tax.

(Paragraph 2.4.4.2)

The Joint Commissioners of Commercial Taxes had passed appeal orders involving disputed revenue of ₹ 16.04 lakh against the assessments done by the Deputy Commissioners of Commercial Taxes of circles by reducing the assessed amount in six cases and setting aside the assessment in one case although they had no valid jurisdiction.

(Paragraph 2.4.4.3)

Due to reassessment of the case by the appellate authority himself and delay in reassessment of the cases, revenue of ₹ 7.14 crore remained blocked.

(Paragraph 2.4.4.4)

Error on the part of the appellate authorities in determining the jurisdiction over the cases resulted in undue pendency of the appeals and consequent blocking of Government revenue of ₹ 3.87 crore.

**(Paragraph 2.4.4.5)**

In 21 cases involving disputed amount of ₹ 25.29 crore, four to nine adjournments had been allowed to the appellants in contravention of the provisions.

**(Paragraph 2.4.4.6)**

Potential revenue of ₹ 25.54 crore involved in set aside cases remained unrealised due to non-initiation of reassessment proceedings.

**(Paragraph 2.4.4.7)**

Audit of system in the State for recovery of arrears of revenue showed several system and compliance deficiencies. While targets were not fixed regularly for collection of arrears, the systems prescribed for maintenance of records / registers required for collection of arrears, pursuance of stayed cases of arrears were not followed at all.

**(Paragraph 2.5)**

Arrear dues of ₹ 66.86 crore has remained unrealised even after lapse of 4 to 76 months since the date of issue of show-cause notices due to non-initiation of tax recovery proceedings.

**(Paragraph 2.5.7.1)**

Failure of the Department to issue Form-1 resulted in Government revenue of ₹ 13.87 crore becoming time-barred.

**(Paragraph 2.5.7.2)**

Failure to initiate tax recovery proceedings despite the instructions of Commissioner of Commercial Taxes, led to non-realisation of arrear dues of ₹ 24.55 crore.

**(Paragraph 2.5.7.3)**

Lack of follow up action by the Tax Recovery Officers resulted in non-recovery of ₹ 8.85 crore.

**(Paragraph 2.5.7.4)**

Certificate requisitions in Form-1 were issued for realisation of arrear dues of ₹ 25.76 crore in 37 cases without imposing penalty of ₹ 17.20 crore.

**(Paragraph 2.5.7.5)**

In 89 cases involving tax dues of ₹ 3.71 crore demanded during the period from 2012-13 to 2014-15, show-cause notices had not been issued till May 2016.

**(Paragraph 2.5.7.6)**

Levy of tax at lower rate on the Taxable Turnover of a home UPS dealer resulted in short levy of tax of ₹ 14.41 lakh and non-imposition of penalty of ₹ 28.82 lakh.

**(Paragraph 2.7.1)**

Due to under assessment of taxable turnover, there was short levy of tax and penalty of ₹ 55.59 lakh.

**(Paragraph 2.7.2)**

Application of lower rates of tax by the Assessing Authority on retreaded tyres resulted in short levy of tax of ₹ 5.04 lakh. Besides, penalty of ₹ 10.08 lakh was also imposable.

**(Paragraph 2.7.3)**

Erroneous under assessment of sales turnover led to irregular allowance of ITC of ₹ 1.39 crore.

**(Paragraph 2.7.4)**

Assessing Authorities failed to levy penalty of ₹ 22.43 crore, despite delays in submission of certified audited annual accounts.

**(Paragraph 2.7.5)**

Irregular deduction of ₹ 154.34 crore from purchase turnover, treating goods as non-scheduled goods, resulted in short levy of entry tax (ET) of ₹ 0.77 crore and penalty of ₹ 1.54 crore.

**(Paragraph 2.8.1)**

Entry Tax of ₹ 3.15 lakh and penalty of ₹ 6.29 lakh were short levied due to allowance of excess set-off.

**(Paragraph 2.8.2)**

The Assessing Authority had failed to levy tax and penalty of ₹ 89.94 lakh on the minor minerals treating the same as non-scheduled goods during audit assessment though the same is taxable as per entry No. 59 of Part I of Schedule to the Odisha Entry Tax Act.

**(Paragraph 2.8.3)**

### **III State Excise**

Performance Audit of “**Issue of Licences, Permits and Passes by Excise Department**” revealed the following:

- Annual Excise Policy did not provide for payment of differential licence fee in case of excess lifting of foreign liquor. The absence of a suitable provision resulted in Government being deprived of revenue of ₹ 111.04 crore.

**(Paragraph 3.4.6.1)**

- In contravention of the codal provisions, licences for retail excise shops were granted by renewal of licences instead of calling for applications on a fixed consideration and through draw of lottery.

**(Paragraph 3.4.7.1)**

- Injudicious decision in cancelling the licences of sanctioned excise shops operating on Government land without giving an option to the licensees for relocation of shops led to loss of Government revenue of ₹ 52.31 crore.

**(Paragraph 3.4.7.5)**

- Irregular inclusion of Income Tax component of the retailers in the price of liquor led to extra burden of ₹ 95.29 crore on consumers.

**(Paragraph 3.4.7.9)**

- There was potential risk of illegal trading of liquor by showing loss/ breakage of 2,57,653 cases of liquor valued at ₹ 32.94 crore during transit from manufacturing units to Odisha State Beverages Corporation depots.

**(Paragraph 3.4.8.1)**

- Failure in monitoring supply of liquor against permits led to loss of revenue of ₹ 293.71 crore.

**(Paragraph 3.4.8.3)**

- Lack of timely action to dispose of stock in a distillery after expiry of licences led to loss/ non-realisation of excise revenue of ₹ 2.37 crore.

**(Paragraph 3.4.9.2)**

- Shortage of required manpower and infrastructure led to non-inspection of retail shops by the field functionaries thereby affecting the enforcement activities.

**(Paragraphs 3.4.10.1 and 3.4.10.2)**

Non-realisation of State Excise Duty on short lifted MGQ of IMFL/ Beer from the concerned licensees resulted in loss of ₹ 1.43 crore and ₹ 0.14 crore towards fine.

**(Paragraph 3.6.1)**

Non-realisation of Utilisation Fee and Fine for failure to lift the minimum guaranteed quantity of molasses resulted in non-realisation of Government revenue of ₹ 20.38 lakh.

**(Paragraph 3.6.2)**

Government lost potential revenue amounting to ₹ 1.79 crore due to non-settlement of IMFL 'Off' shop during the period from November 2013 to March 2015.

**(Paragraph 3.6.4)**

## **IV Stamp Duty and Registration Fee**

Misclassification of instrument of conveyance as cancellation deeds resulted in short realisation of Stamp Duty of ₹ 14.95 lakh and Registration Fee of ₹ 5.92 lakh. Besides, fine of ₹ 2.55 lakh was imposable.

**(Paragraph 4.5.1)**

Stamp Duty of ₹ 9.13 lakh and Registration Fee of ₹ 3.35 lakh were short realised on Sale Certificates.

**(Paragraph 4.5.2)**

## **V Motor Vehicle Tax**

Motor Vehicle tax and additional tax of ₹ 114.12 crore including penalty was not realised / short realised in respect of 36,244 vehicles under different categories.

**(Paragraphs 5.5.1)**

Motor Vehicle tax and additional tax of ₹ 19.04 lakh and penalty of ₹ 38.08 lakh was not realised / short realised from the stage carriages.

**(Paragraph 5.5.2)**

Motor Vehicle tax of ₹ 21.99 lakh and penalty of ₹ 43.98 lakh was not realised / short realised from private service vehicles.

**(Paragraph 5.5.3)**

## **VI Mining Receipts**

Deputy Directors of Mines of Talcher and Sambalpur, while assessing the lessees, failed to levy royalty after adding sizing charges on the price of coal. This led to short levy of royalty of ₹ 141.29 crore at the differential rates.

**(Paragraph 6.5.1)**



# **Chapter I**

## **General**





## CHAPTER I

### GENERAL

#### 1.1 Trend of Revenue Receipts

1.1.1 The tax and non-tax revenue raised by the Government of Odisha during the year 2015-16, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-Aid received from the Government of India during the year and the corresponding figures for the preceding four years are depicted in **Table-1.1.1**.

**Table-1.1.1**  
**Trend of Revenue Receipts**

(₹ in crore)

Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
1.	<b>Revenue raised by the State Government</b>					
	• Tax Revenue	13,442.74	15,034.13	16,891.59	19,828.29	22,526.96
	• Non-tax Revenue	6,442.96	8,078.04	8,378.60	8,070.87	8,711.24
	<b>Total</b>	<b>19,885.70</b>	<b>23,112.17</b>	<b>25,270.19</b>	<b>27,899.16</b>	<b>31,238.20</b>
2.	<b>Receipts from the Government of India</b>					
	• State's Net Proceeds of Divisible Union Taxes and Duties	12,229.12	13,965.01	15,247.24	16,181.22	23,573.78 <sup>1</sup>
	• Grants-in-Aid	8,152.20	6,859.73	8,429.42	12,917.50	14,129.46
	<b>Total</b>	<b>20,381.32</b>	<b>20,824.74</b>	<b>23,676.66</b>	<b>29,098.72</b>	<b>37,703.24</b>
3.	Total Revenue Receipts of the State Government (1 and 2)	40,267.02	43,936.91	48,946.85	56,997.88	68,941.44
4.	<b>Percentage of 1 to 3</b>	<b>49.38</b>	<b>52.60</b>	<b>51.63</b>	<b>48.95</b>	<b>45.31</b>

Source: Finance Accounts for the year 2015-16 of the Government of Odisha

In the year 2015-16, the revenue raised by the State Government (₹ 31,238.20 crore) was 45.31 per cent of total revenue receipts. The balance (₹ 37,703.24 crore) of 54.69 per cent of the receipts during the year was from the Government of India.

<sup>1</sup> For details, please see Statement No. 14- Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Odisha for the year 2015-16. Figures under the Minor Head 901 - Share of Net Proceeds Assigned to the States under the Major Heads 0020-Corporation Tax; 0021 - Taxes on Income other than Corporation Tax; 0028 - Other Taxes on Income and Expenditure; 0032 - Taxes on Wealth; 0037 - Customs; 0038 - Union Excise Duties; 0044 - Service Tax and 0045 - Other Taxes and Duties on Commodities and Services booked in the Finance Accounts under A - Tax Revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes.

**1.1.2** The details of tax revenue raised during the period 2011-12 to 2015-16 are given in **Table-1.1.2**.

**Table-1.1.2**  
**Details of Tax Revenue Raised**

Sl. No.	Head of Revenue	₹ in crore)										
		2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15
		BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	
1.	OVAT including Odisha Sales Tax (OST)	7,556.35	7,463.39	9,016.20	8,929.61	10,195.00	9,882.03	11,505.69	10,892.11	11,651.41	12,211.26	(+) 12.11
	Central Sales Tax (CST)	725.04	733.45	783.80	755.07	900.00	846.52	929.59	924.62	953.59	885.73	(-) 4.21
2.	Taxes and Duties on Electricity	500.00	551.65	580.00	590.48	640.00	670.11	768.00	1,722.60	950.00	1,212.21	(-) 29.63
3.	Land Revenue	465.00	521.47	480.00	420.21	400.00	431.26	440.00	645.64	470.00	588.81	(-) 8.80
4.	Taxes on Vehicles	843.00	787.99	850.00	746.19	900.00	859.67	972.00	910.31	1,068.00	1,043.73	(+) 14.66
5.	Taxes on Goods and Passengers	1,235.00	1,312.36	1,350.00	1,342.54	1,500.00	1,613.46	1,740.00	1,710.87	1,750.00	1,662.99	(-) 2.80
6.	State Excise	1,350.00	1,379.00	1,500.00	1,498.64	1,725.00	1,780.13	2,100.00	2,035.24	2,390.00	2,546.94	(+) 25.14
7.	Stamp Duty and Registration Fee	510.00	498.14	550.00	544.88	620.00	605.48	802.32	800.23	2,267.00	2,157.07	(+) 169.56
8.	Other Taxes and Duties on Commodities and Services	55.00	68.39	60.28	70.52	65.00	53.23	40.06	17.70	30.00	42.65	(+) 140.96
9.	Other Taxes on Income and Expenditure - Tax on Professions, Trades, Callings and Employments	160.00	126.90	140.00	135.99	160.00	149.70	176.00	168.97	170.00	175.57	(+) 3.91
	<b>Total</b>	<b>13,399.39</b>	<b>13,442.74</b>	<b>15,310.28</b>	<b>15,034.13</b>	<b>17,105.00</b>	<b>16,891.59</b>	<b>19,473.66</b>	<b>19,828.29</b>	<b>21,700.00</b>	<b>22,526.96</b>	

*Source: Finance Accounts for the year 2015-16 of the Government of Odisha*

The respective Departments reported the following reasons for the variations:

**Odisha Value Added Tax (OVAT) including OST/ Central Sales Tax (CST):** Increase in VAT collection (12.11 *per cent*) was due to increase in business activities and measures taken by the Government for revenue augmentation. The decrease in CST collection (4.21 *per cent*) was due to bulk payment by Hindustan Aeronautics Limited during the previous year 2014-15 on account of arrear settlement.

**Taxes on Vehicles:** Increase (14.66 *per cent*) was due to constant monitoring of enforcement activities and collection of arrear revenue by initiation and disposal of tax recovery cases.

**Stamp Duty and Registration Fee:** Increase (169.56 *per cent*) was attributed to registration of more number of mining leases.

The other Departments, despite being requested (April and July 2016), did not furnish the reasons for variations in receipts from that of the previous year (2014-15).

**1.1.3** The details of non-tax revenue raised during the period 2011-12 to 2015-16 are indicated in **Table-1.1.3**.

**Table-1.1.3**  
**Details of Non-tax Revenue Raised**

(₹ in crore)

Sl. No.	Head of Revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15
		BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	
1.	Non-ferrous Mining and Metallurgical Industries	3,804.63	4,571.57	5,000.00	5,695.70	5,515.00	5,518.80	5,660.07	5,310.09	6,000.00	5,798.96	(+) 9.21
2.	Interest Receipts	340.00	576.38	200.00	588.25	300.00	1241.18	408.98	330.67	330.00	560.42	(+) 69.48
3.	Forestry and Wildlife	91.87	192.39	117.46	188.92	30.22	95.11	31.73	61.51	98.85	152.99	(+) 148.72
4.	Irrigation and Inland Water Transport	178.30	333.11	295.28	396.76	380.30	451.70	435.77	629.60	616.00	707.11	(+) 12.31
5.	Other Administrative Services	11.00	16.07	10.24	12.76	13.30	24.44	23.86	29.75	33.66	37.86	(+) 27.26
6.	Public Works	40.25	47.16	40.04	49.77	47.00	69.72	63.03	88.59	81.81	77.48	(-) 12.54
7.	Police Receipts	39.19	36.18	33.97	52.62	37.15	44.70	52.38	50.00	59.30	59.61	(+) 19.22
8.	Education	15.37	21.18	10.17	89.10	16.63	75.86	27.69	18.87	62.73	66.89	(+) 254.48
9.	Medical and Public Health	18.00	37.12	9.90	10.55	28.84	28.71	30.81	33.15	37.03	52.70	(+) 58.97
10.	Miscellaneous General Services	7.95	86.86	7.11	225.60	11.00	126.50	29.54	118.84	175.36	192.08	(+) 61.63
11.	Power	2.13	3.37	2.17	2.14	2.30	4.70	41.95	2.18	39.36	2.25	(+) 3.21
12.	Co-operation	2.05	1.92	2.20	2.97	2.30	3.34	2.47	2.56	2.05	2.50	(-) 2.40
13.	Other Non-tax Receipts	258.48	519.65	308.24	762.90	441.10	693.84	796.87	1,395.06	1,463.85	1,000.40	(-) 28.29
	<b>Total:</b>	<b>4,809.22</b>	<b>6,442.96</b>	<b>6,036.78</b>	<b>8,078.04</b>	<b>6,825.14</b>	<b>8,378.60</b>	<b>7,605.15</b>	<b>8,070.87</b>	<b>9,000.00</b>	<b>8,711.24</b>	

Source: Finance Accounts for the year 2015-16 of the Government of Odisha

The respective Departments reported the following reasons for variations:

**Non-ferrous Mining and Metallurgical Industries:** Increase (9.21 per cent) was due to enhancement of rate of royalty on major minerals.

**Police Receipts:** Increase (19.2 per cent) was due to collection of arrears from South Eastern Railway / East Coast Railway and collection of arrears towards reimbursement of enhanced pay.

The other Departments, despite being requested (April and July 2016), did not furnish the reasons for variations in receipts from that of the previous year (2014-15).

## 1.2 Analysis of Arrears of Revenue

The arrears of revenue, as on 31 March 2016, under some principal heads of revenue amounted to ₹ 11,431.40 crore of which ₹ 2,518.43 crore was outstanding for more than five years as detailed in **Table-1.2**.

**Table-1.2**  
**Arrears of Revenue**

(₹ in crore)

Sl. No.	Head of Revenue	Total amount outstanding as on 31 March 2016	Amount outstanding for more than five years as on 31 March 2016	Replies of Department
<b>A - Tax Revenue</b>				
<b>0040- Taxes on Sales, Trade etc.</b>				
1.	VAT (including OST and CST)	6,969.63	2,147.34	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show-cause notices and penalty 2,214.01</li> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➤ Departmental Authorities 906.47</li> <li>➤ Supreme Court/ High Court 3,240.31</li> </ul> </li> <li>• Demands covered by tax recovery proceedings 602.17</li> <li>• Amount likely to be written off 6.67</li> </ul>
<b>0042-Taxes on Goods and Passengers</b>				
2.	Entry Tax	2,370.12	287.48	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show-cause notices and penalty 710.18</li> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➤ Departmental Authorities 444.92</li> <li>➤ Supreme Court/ High Court 1,190.66</li> </ul> </li> <li>• Demands covered by certificate proceedings 24.29</li> <li>• Amount likely to be written off 0.07</li> </ul>
<b>0041-Taxes on Vehicles</b>				
3.	Taxes on Vehicles	143.27	73.27	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 114.81</li> <li>• Recoveries stayed by Departmental Authorities 5.90</li> <li>• Other stages 22.56</li> </ul>
<b>0039-State Excise</b>				
4.	State Excise	54.00	--	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Recoveries stayed by Supreme Court / High Court 37.53</li> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 14.46</li> <li>• Other stages 2.01</li> </ul>
<b>B - Non-Tax Revenue</b>				
5.	Mining Receipts	1,894.42	10.34	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Certificate cases 1.54</li> <li>• Amount under dispute --</li> <li>• Amount likely to be written off 2.36</li> <li>• Court of law 1,850.79</li> <li>• Recoverable dues 39.73</li> </ul>
<b>Total</b>		<b>11,431.40</b>	<b>2,518.43</b>	

Source: Replies of Departments concerned

Recovery of arrears of ₹ 1,357.29 crore were stayed by the Departmental authorities and sufficient efforts were not made to dispose of the same. Certificate cases / tax recovery proceedings initiated for recovery of ₹ 757.27 crore had not been finalised. Cases referred for write off (₹ 9.10 crore) were also not being pursued.

### 1.3 Arrears in Assessments

The details of cases pending at the beginning of the year, cases due for assessment, cases disposed of during the year and cases pending finalisation at the end of the year as furnished by the Commercial Tax wing of Finance Department in respect of Odisha Sales Tax, Odisha Value Added Tax, Central Sales Tax, Odisha Entry Tax, Professional Tax and Entertainment Tax are given in **Table-1.3**.

**Table-1.3**  
**Arrears in Assessments**

Head of Revenue	Opening Balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Odisha Sales Tax	4,622	458	5,080	137	4,943	2.70
CST	569	372	941	359	582	38.15
VAT	1,999	2,333	4,332	2,795	1,537	64.52
Entry Tax	903	1,444	2,347	1,661	686	70.77
Professional Tax	30,342	23,371	53,713	20,504	33,209	38.17
Entertainment Tax	99	73	172	90	82	52.33

Source: Commercial Tax Wing of the Finance Department

It would be seen from the above that 4,943 assessments under the erstwhile Odisha Sales Tax Act were pending as on 31 March 2016 although the Act had been repealed on 1 April 2005.

### 1.4 Evasion of Tax

The details of cases of evasion of tax detected by the Commercial Tax wing of Finance Department, cases finalised and the demands for additional tax raised, as reported by the Department, are given in **Table-1.4**.

**Table-1.4**  
**Evasion of Tax**

Sl. No.	Head of Revenue	Cases pending as on 31 March 2015	Cases detected during 2015-16	Total	Number of cases in which assessment / investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2016
					Number of cases	Amount of demand	
1.	Odisha Sales Tax	26	0	26	0	0.00	26
2.	Entry Tax	49	8	57	44	4.14	13
3.	Value Added Tax	716	165	881	510	212.15	371
4.	Central Sales Tax	8	8	16	13	9.67	3
<b>Total</b>		<b>799</b>	<b>181</b>	<b>980</b>	<b>567</b>	<b>225.96</b>	<b>413</b>

Source: Commercial Tax Wing of the Finance Department

Although 567 out of the total 980 cases (57.55 per cent) were disposed of during the year, 26 cases relating to the repealed Odisha Sales Tax Act, which

were due for disposal at the beginning of the year, remained undisposed of at the end of the year.

### 1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16, as reported by the Commercial Tax wing of Finance Department, are given in **Table-1.5**.

**Table-1.5**

#### Details of Pendency of Refund Cases

(₹ in crore)

Sl. No.	Particulars	Sales Tax / VAT		Entry Tax	
		Number of cases	Amount	Number of cases	Amount
1.	Claims outstanding at the beginning of the year	1,344	187.79	214	30.25
2.	Claims received during the year	338	22.65	160	17.73
3.	Refunds made during the year	579	86.70	100	0.20
4.	Balance outstanding at the end of the year	1,103	123.74	274	47.78

Source: Commercial Tax Wing of the Finance Department

It would be seen from the Table that only 34.42 per cent of refund cases relating to Sales Tax / VAT and 26.74 per cent of refund cases relating to Entry Tax were disposed of during 2015-16.

Odisha VAT Act provides for payment of simple interest at the rate of eight per cent per annum if the refund is not made to the dealer within 60 days from the date of receipt of order for refund or within 90 days from the date of receipt of application for refund till the refund is made. If refund cases are not cleared expeditiously, Government may incur liability for payment of interest. During the year 2015-16, Government had paid interest of ₹ 1.68 lakh<sup>2</sup> due to such delay in disposal of refund cases.

### 1.6 Response of Departments / Government towards Audit

The Principal Accountant General (E&RSA), Odisha (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify maintenance of important accounts and other records as prescribed in the rules and procedures. Inspection Reports (IRs), incorporating irregularities detected during the inspection and not settled on the spot, are issued to the heads of the offices inspected. Copies are issued to the next higher authorities for taking prompt corrective action. The heads of offices / Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

<sup>2</sup> Interest paid ₹ 1.45 lakh under OST Act and ₹ 0.23 lakh under Odisha Entry Tax Act.

Inspection Reports issued up to December 2015 disclosed that 6,760 paragraphs of 2,751 IRs involving ₹ 21,504.53 crore remained outstanding at the end of June 2016, as detailed below, along with the corresponding figures for the preceding two years in **Table-1.6**.

**Table-1.6****Department-wise Details of IRs**

	June 2014	June 2015	June 2016
Number of IRs pending for settlement	2,939	2,891	2,818
Number of outstanding audit observations	6,656	6,768	6,768
Amount of revenue involved (₹ in crore)	11,060.31	14,540.00	21,505.09

Source: Records of the Principal Accountant General (E&RSA), Odisha

**1.6.1** The Department-wise details of IRs and audit observations, outstanding as on 30 June 2016, as well as the amounts involved are mentioned in **Table-1.6.1**.

**Table-1.6.1****Department-wise Details of IRs (Revenue Receipts)**

(₹ in crore)

Sl. No.	Name of the Department	Nature of Receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	OVAT including OST / CST	824	2,023	2,585.12
		Entry Tax	294	583	462.55
		Professional Tax	15	18	17.05
		Entertainment Tax	1	1	2.30
2.	Excise	State Excise	191	511	271.85
3.	Revenue & Disaster Management	Stamp Duty and Registration Fee	545	1,026	459.27
4.	Steel & Mines	Mining Receipts	156	437	17,304.10
5.	Transport	Taxes on Vehicles and Taxes on Goods and Passengers	320	975	298.94
<b>Total</b>			<b>2,346</b>	<b>5,574</b>	<b>21,401.18</b>

Source: Records of the Principal Accountant General (E&RSA), Odisha

**Department-wise Details of IRs (Expenditure)**

(₹ in crore)

Sl. No.	Name of the Department	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	94	161	1.65
2.	Excise	80	112	0
3.	Revenue & Disaster Management	40	258	7.70
4.	Steel & Mines	33	72	7.63
5.	Transport	225	591	86.93
<b>Total</b>		<b>472</b>	<b>1,194</b>	<b>103.91</b>

Source: Records of the Principal Accountant General (E&RSA), Odisha

Audit did not receive even the first replies in respect of 152 IRs issued during 2015-16 from the heads of offices within one month from the date of issue of the IRs. Pendency of IRs due to non-receipt of the replies is indicative of failure to initiate action for rectification of defects, omissions and irregularities pointed out by the PAG in the IRs.



### 1.6.2 Departmental Audit Committee (DAC) Meetings

The Government set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained therein. The details of audit committee meetings held during the year 2015-16 and the paragraphs settled are given in **Table-1.6.2**.

**Table-1.6.2**

#### Details of Departmental Audit Committee Meetings

(₹ in crore)

Sl. No.	Name of the Department	Number of meetings held	Number of Paras settled	Amount
1.	Finance	11	223	46.85
2.	Transport	5	85	1.49
3.	Excise	4	143	55.76
4.	Revenue & Disaster Management	2	25	9.42
5.	Steel & Mines	3	53	121.33
<b>Total</b>		<b>25</b>	<b>529</b>	<b>234.85</b>

Source: Records of the Principal Accountant General (E&RSA), Odisha

### 1.6.3 Non-production of records to Audit for scrutiny

The programme of local audit of Tax Revenue / Non-Tax Revenue offices is drawn up in advance and intimations are issued usually one month before the commencement of audit to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2015-16, as many as 1,373 assessment files, returns, refund registers and other relevant records involving tax effect of ₹ 774.15 crore were not made available to audit for scrutiny. Break-up of these cases are given in **Table-1.6.3**. There was no case of non-production of records in other Departments.

**Table-1.6.3**

#### Details of non-production of records

(₹ in crore)

Name of the Department	Type of Tax/ Non-tax revenue	Year in which it was to be audited	Number of cases not audited due to non-production of records to Audit	Tax Amount
Finance	Taxes on sales, trade etc.	Upto 2014-15	847	428.75
		2015-16	526	345.70
<b>Total</b>			<b>1,373</b>	<b>774.45</b>

Source: Records of the Principal Accountant General (E&RSA), Odisha

### 1.6.4 Response of Departments to Draft Audit Paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG to the Principal Secretaries / Secretaries of the concerned Departments, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments / Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Audit forwarded 23 draft paragraphs and one Performance Audit (PA) to the Principal Secretaries / Secretaries of the respective Departments by name between May and October 2016. The Principal Secretaries / Secretaries of the Departments did not send replies to 9 draft paragraphs, despite issue of reminders, and the same have been included in this Report without the response of the Departments.

### 1.6.5 Follow-up on Audit Reports – Summarised Position

Based on the recommendations of the High Powered Committee on response of the State Governments to the Audit Reports of the Comptroller and Auditor General of India, Finance Department issued (December 1993) instructions to Secretaries of all Departments to submit explanatory notes on paragraphs included in the Audit Reports within three months from the date of placing of Report in Odisha Legislative Assembly, indicating the action taken or proposed to be taken. In spite of these instructions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Reports of the Comptroller and Auditor General of India on the Revenue Receipts/ Revenue Sector of the Government of Odisha containing 805 paragraphs (including Performance Audit) for the years ended 31 March 1994, 1995 and 1998 to 2014 were placed before the State Legislative Assembly between June 1995 and March 2015. The action taken explanatory notes in respect of 33 paragraphs featured in the Audit Report (Revenue Sector) for the year ended March 2014 were not received (September 2016) from three Departments<sup>3</sup>.

The Public Accounts Committee (PAC) of Odisha State Legislative Assembly discussed 184 selected paragraphs pertaining to the Audit Reports for the years from 1985-86 to 2006-07 and its 428 recommendations were incorporated in 28 Reports. However, Action Taken Notes (ATNs) in respect of 4 recommendations of the PAC laid in the Odisha Legislative Assembly between February 1991 and December 2008 had not been received from the Departments concerned, although the same were required to be received within three months from the date of laying of the Reports in the legislature. The details are given in **Table-1.6.5**.

**Table-1.6.5**

Year	Name of the Department		Total
	Commerce and Transport	Excise	
1995-96 (11th Assembly)	1	-	1
2008-09 (13th Assembly)	-	3	3
<b>Total</b>	<b>1</b>	<b>3</b>	<b>4</b>

### 1.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports / Audit Reports by the Departments / Government, action taken on the paragraphs and PAs included in the Audit Reports of the last 10 years in respect of one Department is evaluated and included in this Audit Report.

<sup>3</sup> Excise: 19, Revenue & Disaster Management: 8 and Steel & Mines: 6.

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of the Excise Department under revenue head 0039-State Excise and the cases detected in local audit during the last 10 years and also the cases included in the Audit Reports for the years 2006-07 to 2015-16.

### 1.7.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2016 are given in **Table-1.7.1**.

**Table-1.7.1**  
**Position of Inspection Reports**

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2006-07	258	602	128.89	55	138	42.65	39	107	16.48	274	633	155.06
2.	2007-08	274	633	155.06	28	70	13.36	23	91	26.97	279	612	141.45
3.	2008-09	279	612	141.45	18	53	16.95	76	229	53.98	221	436	104.42
4.	2009-10	221	436	104.42	34	95	20.40	17	23	0.10	238	508	124.72
5.	2010-11	238	508	124.72	19	66	14.82	13	77	1.47	244	497	138.07
6.	2011-12	244	497	138.07	20	108	36.78	4	20	6.91	260	585	167.94
7.	2012-13	260	585	167.94	93	198	29.86	5	34	0.08	348	749	197.72
8.	2013-14	348	749	197.72	21	172	306.85	8	40	7.83	361	881	496.74
9.	2014-15	361	881	496.74	31	225	377.01	132	390	150.41	260	716	723.34
10.	2015-16	260	716	723.34	18	120	62.33	49	221	69.76	229	615	715.91

Source: Records of the Principal Accountant General (E&RSA), Odisha

The Government arranges *ad hoc* Committee meetings between the Department and PAG's office to settle the old paragraphs. During the last two years i.e. 2014-15 and 2015-16, the Department had taken initiatives for settlement of IRs for which the number of outstanding IRs reduced to 229 as on 31 March 2016. Still then, 229 IRs containing 615 paragraphs remained outstanding for settlement as on 31 March 2016.

### 1.7.2 Recovery of Accepted Cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table-1.7.2**.

**Table-1.7.2**

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as on 31 March 2016
2005-06	3	5.99	3	5.99		1.47
2006-07	5	0.83	5	0.83		0.13
2007-08	5	3.85	5	3.85		0.27
2008-09	1	0.57	1	0.57		0
2009-10	9	1.34	9	1.34		0.10
2010-11	5	1.55	4	1.39		0.03
2011-12	6	355.15	6	355.15		0.18
2012-13	17	6.56	17	6.56	0.07	0.07
2013-14	12	6.57	12	6.57	0.04	0.04
2014-15	7	3.63	7	3.63	2.55	2.55

Source: Records of the Principal Accountant General (E&RSA), Odisha

The progress of recovery even in accepted cases was very slow except for the year 2014-15. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases was put in place by the Department / Government.

## 1.8 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis, which *inter alia* includes critical issues in Government revenue and tax administration i.e. budget speech, white paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during past five years etc.

During the year 2015-16, there were 513 auditable units of which 286 units had been planned and 282 were audited, which constituted 54.97 *per cent* of the total auditable units.

Besides the above, one Performance Audit was also taken up to assess the efficacy and effectiveness in issuing licences, permits and passes by the Excise Department.

## 1.9 Results of Audit

### Position of local audit conducted during the year

Test check of records of 195 units relating to Value Added Tax, Goods and Passengers Tax, State Excise Duty, Stamp Duty and Registration Fee, Motor Vehicle Tax and other Non-Tax receipts conducted during the year 2015-16 showed underassessment / short levy / loss of revenue aggregating ₹ 2,311.68 crore in 3,48,849 cases. During the year, the Departments concerned accepted underassessment and other deficiencies of ₹ 162.29 crore involved in 57,134 cases which were pointed out in audit during 2015-16 and realised ₹ 30.95 crore in 564 cases pertaining to audit findings of 2015-16 and previous years.

Similarly, test check of records of 196 units under Commercial Taxes, Excise, Revenue & Disaster Management, Transport and Steel & Mines Departments conducted during the year 2015-16 showed irregular expenditure / payment amounting to ₹ 1,248.94 crore in 339 cases. During the year, the Departments concerned accepted irregularities of ₹ 0.85 crore involved in 162 cases which were pointed out in audit during 2015-16 and realised ₹ 0.29 lakh in 3 cases pertaining to previous years.

## 1.10 Coverage of this Report

This Report contains 24 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) including one Performance Audit on “**Issue**

**of Licences, Permits and Passes by Excise Department”** involving financial effect of ₹ 1,058 crore.

The Departments / Government have accepted audit observations involving ₹ 162.29 crore out of which ₹ 30.95 crore had been recovered. The replies in the remaining cases have not been received (November 2016). These are discussed in succeeding Chapters II to VII.

# **Chapter II**

## **Value Added Tax and Entry Tax etc.**



## CHAPTER II

### VALUE ADDED TAX AND ENTRY TAX ETC.

#### 2.1 Tax Administration

Value Added Tax, Entry Tax, Central Sales Tax, Professional Tax, Entertainment Tax, Luxury Tax Acts and Rules framed thereunder are administered at the Government level by the Additional Chief Secretary, Finance Department, Government of Odisha. The Commissioner of Commercial Taxes (CCT) is the head of the Commercial Tax wing of Finance Department who is assisted by Additional CCTs in 3 zones, Joint CCTs (JCCTs) in 12 ranges, Deputy CCTs (DCCTs) / Assistant CCTs (ACCTs) / Commercial Tax Officers (CTOs) in 45 circles and CTOs in 14 assessment units for administering the relevant tax laws and rules under Odisha Value Added Tax (OVAT) Act, 2004, Odisha Entry Tax (OET) Act, 1999, Central Sales Tax (CST) Act, 1956, Odisha State Tax on Professions, Trades, Callings and Employments Act, 2000 (commonly known as Professional Tax Act, 2000). Besides, there are 6 enforcement ranges headed by Special Commissioners of Commercial Taxes (Enforcement) and 15 investigation units for checking tax evasion and interstate transactions.

#### 2.2 Internal Audit

The Internal Audit Wing (IAW) of the Department is defunct since 2002-03. The Department has not taken any steps to revive IAW despite this being pointed out in Audit Reports (Revenue Sector) during the previous years. The Department stated (September 2016) that Internal Audit was not effective in the VAT regime. Further, internal check and control mechanism is in operation even in the absence of a dedicated IAW.

#### 2.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2015-16, test check of records of 56 units relating to OVAT, CST, OET, and Odisha Entertainment Tax assessments and other records showed underassessment of tax and other irregularities involving ₹ 567.20 crore in 350 cases which fall under the categories as given in Table 2.1 below:

**Table - 2.1**

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>Sales Tax/VAT(including CST)</b>			
1.	Audit of "Pendency and Disposal of Review and Appeal Cases in Commercial Tax Department and their impact on revenue collection"	6	62.54
2.	Audit of "System in the State for recovery of arrears of Revenue in Commercial Tax Department"	6	132.42



Sl. No.	Categories	No. of cases	Amount
3.	Under-assessment of tax	49	47.87
4.	Evasion of tax due to suppression of sales/purchase	12	6.58
5.	Irregular/incorrect/excess allowance of input tax credit	26	31.63
6.	Other Irregularities	167	246.43
	<b>Total</b>	<b>266</b>	<b>527.47</b>
<b>Entry Tax</b>			
1.	Under-assessment of tax	45	18.03
2.	Other Irregularities	38	19.29
	<b>Total</b>	<b>83</b>	<b>37.32</b>
<b>Entertainment Tax</b>			
1.	Under-assessment of tax	1	2.41
	<b>Total</b>	<b>1</b>	<b>2.41</b>
	<b>Grand Total</b>	<b>350</b>	<b>567.20</b>

During 2015-16, the Department accepted underassessment and other deficiencies of ₹ 21.84 crore in 120 cases which were pointed out during the earlier years. An amount of ₹ 1.60 crore pointed out earlier was realised in 46 cases during the year 2015-16.

## **B. EXPENDITURE**

Audit also test checked records relating to expenditure accounts of the above units and found irregularities involving ₹ 0.28 crore in 31 cases which fall under the categories as given in Table 2.2 below:

**Table - 2.2**

(₹ in lakh)

Sl. No.	Categories	No. of cases	Amount
1.	Irregularity in management of cash	12	3.63
2.	Irregular payment of House Rent Allowance	6	9.40
3.	Other Irregularities	13	14.47
	<b>Total</b>	<b>31</b>	<b>27.50</b>

During the course of the year, Department accepted irregularities and other deficiencies of ₹ 0.12 lakh in two cases which were pointed out in audit during earlier years and realised the same.

## **2.4 Audit of “Pendency and Disposal of Review and Appeal cases in Commercial Tax Department and their impact on revenue collection”**

### **2.4.1 Introduction**

The assessment and collection of taxes under Odisha Value Added Tax (OVAT) Act, 2004, Odisha Entry Tax (OET) Act, 1999 and Central Sales Tax Act, 1956 in the State is entrusted with the Commercial Tax (CT) Wing of the Finance Department. As per the provisions of the above Acts, any dealer, aggrieved by an assessment order passed for any tax periods, is allowed to prefer appeal within 30 days of receipt of the assessment order. While preferring an appeal, the dealer is required to deposit 20 *per cent* of the tax or interest or both demanded in the disputed order. The balance is to be adjusted after disposal of the appeal. Besides, the dealer may file petition for revision of the assessment orders before the Commissioner of Commercial Taxes (CCT) or the latter may, on his own motion, revise an order passed by any person, other than the Odisha Sales Tax Tribunal. The Joint Commissioners of Commercial Taxes (JCCTs) and Deputy Commissioner of Commercial Taxes (Appeal) of the Range are the first appellate authorities in respect of the assessments finalised by the Assistant Commissioners of Commercial Taxes (ACCTs) and Commercial Tax Officers (CTOs) of the circles. Similarly, the Additional Commissioners of Commercial Taxes of three zones are the first appellate authorities in respect of the assessments finalised by the JCCTs of the ranges and Deputy Commissioner of Commercial Taxes (DCCTs) of the circles. Besides CCT, the Additional CCTs of the three zones are also delegated with the powers for disposal of revision cases. According to Rule 22 of Odisha Entry Tax (OET) Rules, the authority appointed under the OVAT Act / Rules shall be deemed as the appellate authority under the OET Act. Similarly, as per Rule 22 of the CST (Odisha) Rules, 1957, the provisions of the OVAT Act / Rules shall be applied *mutatis mutandis* to the cases under the Act.

Pendency of appeals and revision cases, having a direct impact on the Government revenue, was taken up for audit between April and July 2016 in four<sup>1</sup> out of the total twelve Ranges covering the period from 2012-13 to 2014-15 to ascertain whether the cases were disposed off in time and in the manner prescribed under the Acts, the Rules made thereunder and the executive instructions issued from time to time. Besides, the position of appeal cases against the assessment orders passed by the AAs of test checked ranges was examined in two corresponding zones<sup>2</sup>. Some of the information collected from the test checked ranges were also cross checked in the concerned circles.

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<sup>1</sup> Angul, Balasore, Cuttack-II and Sundargarh.

<sup>2</sup> Additional Commissioners of Commercial Taxes (Appeal), Central Zone, Cuttack and North Zone, Sambalpur.

## 2.4.2 Trend of disposal of appeal cases in the State *vis-à-vis* selected ranges

### 2.4.2.1 Trend of disposal of appeals in the State

Appeal cases due for disposal and cases disposed off in all the 12 ranges of the State during 2012-15 are given below:

(₹ in crore)

Year	Number of cases received during the year including opening balance		Cases disposed of during the year		Balance cases pending at the end of the year		Percentage of disposal during the year
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2012-13	7,091	801.84	2,005	349.54	5,086	452.30	28.28
2013-14	6,772	570.31	2,503	218.03	4,269	352.28	36.96
2014-15	5,295	559.02	1,822	228.11	3,473	330.91	34.41

Source: Office of the Commissioner of Commercial Taxes, Odisha

The percentage of disposal during the above three years against the total pending appeal cases ranged between 28.28 and 36.96. As a result of the low rate of disposal, 3,473 appeal cases were pending at the end of March 2015. It was observed that appeal cases as old as 28 years (since year 1988-89) were pending for disposal.

### 2.4.2.2 Trend of disposal of appeals in the selected ranges

(₹ in crore)

Year	Number of cases received during the year including opening balance		Cases disposed during the year		Balance cases pending at the end of the year		Percentage of disposal during the year
	No of cases	Amount	No of cases	Amount	No of cases	Amount	
2012-13	3551	214.74	777	70.72	2774	144.02	21.88
2013-14	3509	208.43	982	46.60	2527	161.83	27.99
2014-15	2845	293.79	804	53.94	2041	239.85	28.26

Source: Information collected from test checked ranges

The collective percentage of disposal of the selected ranges is lower than the collective percentage of State disposal in all the years. Further, as shown in **Appendix-2.4.1**, disposal of cases by Angul and Cuttack II ranges was more than the State percentage in all the years while rate of disposal of Balasore and Sundargarh ranges was below the State percentage of disposal. Cuttack II range had disposed of 75.33 *per cent* of cases during 2014-15. Disposal of cases of Balasore range during 2012-13 was below 10 *per cent*.

## Audit Findings

During test check of the records relating to monitoring and disposal of appeal and revision cases, Audit observed certain system as well as compliance deficiencies which are discussed in the succeeding paragraphs.

### 2.4.3 System Deficiencies

#### 2.4.3.1 Absence of executive instructions for timely disposal of first appeal cases

To avoid locking up of Government revenue caused by delay in disposal of appeals during the erstwhile Odisha Sales Tax (OST) regime, the CCT, in

September 1994, had issued a circular to all concerned to get all pending appeal cases disposed of within three months. The CCT subsequently had also issued instructions from time to time in November 1996, October 1997 and October 1999 giving emphasis on quick disposal of pending cases. Under the VAT regime, the CCT after a review of the alarming position of appeal cases pending as on 31 August 2012, issued instructions (October 2012) to all first appellate authorities to ensure that no appeal case should remain pending for more than 26 weeks. However, Audit observed that no such executive instructions prescribing time limit for disposal of appeal cases were issued by the CCT till October 2012 after introduction of the OVAT Act with effect from April 2005. The absence of departmental instructions upto October 2012 stipulating a time limit for disposal has contributed significantly to the pendency of appeal cases. Audit observed that out of 1,407 appeal cases pending for disposal in the test checked ranges as on 31 March 2016, as many as 751 cases (53.38 per cent) were pending for more than 10 years. The range-wise and age-wise details are given below:

(₹ in crore)

Name of the Range	1 to 3 years		3 to 5 years		5 to 10 years		More than 10 years		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Angul	18	0.61	Nil	Nil	Nil	Nil	Nil	Nil	18	0.61
Balasore	62	6.44	46	0.54	37	0.37	724	1.49	869	8.84
Sundargarh	250	19.19	118	19.19	68	3.96	26	0.16	462	42.50
Cuttack II	17	0.27	13	0.15	27	0.76	1	0.01	58	1.19
	<b>347</b>	<b>26.51</b>	<b>177</b>	<b>19.88</b>	<b>132</b>	<b>5.09</b>	<b>751</b>	<b>1.66</b>	<b>1,407</b>	<b>53.14</b>

Source: Information collected from test checked ranges

Act-wise details of pending cases as on 31 March 2015 are given below:

(₹ in crore)

Age	VAT		CST		ET		OST		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
> 10 yrs	0	0.00	98	0.62	15	0.06	638	0.98	751	1.66
5 to 10 yrs	58	3.41	4	0.18	63	1.37	7	0.13	132	5.09
3 to 5 yrs	114	16.78	1	0.01	62	3.09	0	0.00	177	19.88
1 to 3 yrs	214	19.65	10	1.97	118	4.77	5	0.12	347	26.51
<b>Total</b>	<b>386</b>	<b>39.84</b>	<b>113</b>	<b>2.78</b>	<b>258</b>	<b>9.29</b>	<b>650</b>	<b>1.23</b>	<b>1407</b>	<b>53.14</b>

Source: Information collected from test checked ranges

It would be seen from the above that out of 751 appeal cases pending for disposal for more than 10 years in the test checked ranges, 638 cases related to the erstwhile OST Act although OST was phased out more than 10 years ago after introduction of the OVAT Act. Of the same, as many as 624 cases were pending for disposal in Balasore Range only. Audit carried out a sample check of 150 pending appeal cases relating to OST Act in Balasore Range and observed that -

- no hearings had been held in 29 cases,
- one hearing had been held in 104 cases,
- two hearings had been held in 16 cases, and
- four hearings had been held in one case.

Audit further observed that the time period that elapsed from the dates of last hearings in these cases ranged from 7 to 28 year till the month of audit (June 2016).

In reply, Government stated (October 2016) that executive instructions for timely disposal of appeals had been issued time and again but the Appellate Authorities did not adhere to such instructions. Government further added that steps were being taken for timely disposal of appeals especially those relating to the erstwhile OST period by 31 December 2016.

#### **2.4.4 Compliance Deficiencies**

##### **2.4.4.1 Irregular acceptance of first appeals after the stipulated period**

As per Section 77(3) of the OVAT Act, first appeal shall be preferred within thirty days from the date on which the order is served on the dealer.

During test check of records relating to appeals in the offices of the Additional CCT (Appeal), Central Zone, Cuttack and JCCT, Balasore Range, Audit observed (May and June 2016) that appeals of three dealers in Form VAT-501 in seven cases involving demand of ₹ 1.23 crore were irregularly admitted (November 2011 and November 2014) after delays ranging between 169 and 919 days from the dates on which the orders were served on the concerned dealers. The reasons for admitting appeals in the above seven cases after such delays, in contravention of the provisions of the Act, were not on record.

In reply, Government Stated (October 2016) that the three appeal cases relating to Additional CCT, Central Zone, Cuttack were filed by two petitioners in November 2011 within 30 days after receipt of assessment order in October and November 2011. In respect of the remaining four cases relating to Balasore Range, Government stated that the appellate authority had admitted the cases following the principle of natural justice considering the vested right of the petitioner and thereafter, the appeal petitions were cancelled. The reply was not tenable since the challan entries in the cases relating to Central Zone, Cuttack showed that the assessment orders had been served on the dealers between May 2009 and May 2011. Further, the vested right of petitioner for appeal in Balasore Range cannot supersede the provisions of the Act.

##### **2.4.4.2 Irregular acceptance of first appeals without mandatory deposit of 20 per cent of tax in dispute**

As per Section 77(4) of the OVAT Act read with Rule 87 of the OVAT Rules, no appeal against any order shall be entertained by the appellate authority unless it is accompanied by satisfactory proof of payment of admitted tax in full and twenty *per cent* of the tax or interest or both in dispute along with Form VAT-501.

During test check of appeal records in the office of Additional CCT (Appeal), Central Zone, Cuttack and JCCT, Sundargarh Ranges, Audit observed (May and June 2016) that appeals in Form VAT-501 in 11 cases involving demanded tax of ₹ 2.70 crore were admitted (between March 2007 and August 2012) by the above first appellate authorities without receipt of ₹ 54.10 lakh towards mandatory deposit of 20 per cent of the disputed tax as per the above provisions.

After Audit pointed out these cases, Government stated (October 2016) that show cause notices had been issued to the petitioners to make the mandatory deposit of 20 per cent of the tax and interest in dispute, failing which their appeals would be summarily rejected.

#### **2.4.4.3 Admission and disposal of appeals without having valid jurisdiction**

Under Sub-Rules (1) and (2) of Rule 86 of OVAT Rules, 2005 read with CCT's circular<sup>3</sup> dated 12 November 2013, the JCCT or DCCT (Appeal) has jurisdiction over all first appeal cases arising out of orders passed by Assistant Sales Tax officers or Sales Tax Officers / Assistant Commissioners only. In case of assessment orders passed by the JCCTs/ DCCTs of ranges, the Additional CCT (Appeal) of a zone is the first appellate authority if the revenue involved is below ₹ 200 lakh. In case the revenue involved in such assessment orders is above ₹ 200 lakh, then the Additional CCT (Zone) would be the first appellate authority. Audit observed that there were instances of appeal orders, passed by JCCTs against the assessment orders of DCCTs, having been quashed in higher appellate forum resulting in adverse impact on realisation of revenue.

During test check of appeal orders passed by the appellate authorities in Angul and Balasore Ranges, Audit observed (June 2016) that in seven cases involving disputed revenue of ₹ 16.04 lakh disposed of during 2012-13 to 2014-15, the JCCTs had passed appeal orders against the assessments done by the DCCTs of circles by reducing the assessed amount in six cases and setting aside the assessment in one case although they had no valid jurisdiction as per the above provisions and executive instructions. Such orders were fraught with the risk of being quashed during *suo motu* revision by higher authorities causing unnecessary delay in the process of appeal and consequent blocking of Government revenue.

Government while admitting (October 2016) the fact, stated that instructions had been issued (August 2016) to appellate authorities not to admit appeals without proper jurisdiction.

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<sup>3</sup> Circular No. II(II)01 / 12 / 22487 / CT, dated 12 November 2013.

#### **2.4.4.4 Blocking of Government revenue due to irregular assessment of cases set aside**

During test check of Appeal Disposal Register in Angul Range, Audit observed (May 2016) that the DCCT (Appeal) of the range while disposing of (August 2012) five appeal cases of a dealer<sup>4</sup> involving disputed demand of ₹ 7.14 crore, set aside the cases and remanded the same to Angul Circle for reassessment. However, Audit observed that in violation of natural justice, the same DCCT who had passed the appeal orders, reassessed the same cases as the DCCT of Angul Circle and demanded ₹ 12.21 crore. The dealer challenged the reassessments in the Odisha High Court. Hon'ble High Court quashed<sup>5</sup> (October 2015) the reassessment orders and directed the CCT for reassessment of the cases by an appropriate officer other than the officer who had passed appeal orders as the first appellate authority. Audit observed that reassessments of the said cases by an appropriate officer have not been made till the date of audit (May 2016). Thus, due to reassessment of the case by the appellate authority himself and delay in reassessment of the cases despite the orders of the Hon'ble High Court of Odisha, Government revenue of ₹ 7.14 crore remained blocked.

In reply, Government stated (October 2016) that instruction would be issued for disposal of the pending set aside cases by another competent authority.

#### **2.4.4.5 Blocking of Government revenue due to admission of appeal cases without having jurisdiction**

As per Rule 86(1) of the OVAT Rules, 2005, the JCCT / DCCT (Appeal) has the jurisdiction of hearing the appeals against orders passed by Assistant Sales Tax Officers or Sales Tax Officers or Assistant Commissioners, as the case may be. As per Rule 88(2), appeals may be rejected on certain grounds for which an order in writing shall be passed by the appellate authority after giving the appellant a reasonable opportunity of being heard.

During test check of Appeal Disposal Registers in Angul and Balasore Ranges, Audit observed (May and June 2016) that 1,253 appeal cases were disposed of during 2012-15 in these ranges. These included 22 cases involving money value of ₹ 3.87 crore over which the JCCT or DCCT (Appeal) of the ranges were not having appellate jurisdiction. It was, however, observed that the cases were admitted (between September 2013 and April 2014) and notices were issued for hearing. In respect of some cases in Angul Range, interim orders were also passed by the appellate authorities. However, at the time of final disposal, the appellate authorities detected that they had no jurisdiction of appeal over the assessments made by the DCCTs. Hence, the appellate authorities of Balasore Range transferred the cases to the appropriate appellate authority i.e. Additional CCT (Appeal), Central Zone while the appellate authorities of Angul Range rejected the appeals. However, in the meanwhile, 48 to 301 days had already elapsed from the date of receipt of these appeals till their disposal in the above manner. Thus, error on the part of the above appellate authorities

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<sup>4</sup> National Aluminium Company Ltd, TIN- 21931302003.

<sup>5</sup> WP(C) No. 10597 /2015 dated 14 October 2015.

in determining the jurisdiction over the cases resulted in undue pendency of the appeals and consequent blocking of Government revenue of ₹ 3.87 crore.

Government while admitting the fact stated (October 2016) that instruction had been issued (August 2016) for not admitting appeals without proper jurisdiction.

#### **2.4.4.6 Irregular allowance of adjournments in hearings**

As per the provisions of Rule 89(1) of OVAT Rules, 2005, the appellate authority shall fix a day for hearing of the appeal and may from time to time adjourn the hearing provided that not more than three adjournments shall be granted to a party for hearing of the appeal.

During test check of pending as well as disposed of appeal cases in the four test checked ranges and in one zone<sup>6</sup>, Audit observed (between May and July 2016) that in 21 cases (disposed of: 15 and pending: 6) involving disputed amount of ₹ 25.29 crore, four to nine adjournments had been allowed to the appellants in contravention of the provisions.

In reply, Government stated (October 2016) that every care was being taken to dispose of the appeals in a time bound manner. The fact however remained that allowing four to nine adjournments was not in conformity with the provision of OVAT Act and Rules.

#### **2.4.4.7 Non-assessment of set aside cases**

The CCT in his letter dated 31 October 2012, directed the JCCTs of ranges to monitor remanded/ set aside cases regularly, review those cases and take appropriate action on them. To monitor timely assessment of set aside cases the CCT in his circular<sup>7</sup> dated 10 December 2012, prescribed that a 'Set Aside Register' shall be maintained at circle level.

Cross check of cases set aside in first appeal between August 2009 and March 2015 by the JCCTs / DCCTs in four test checked ranges and information furnished by AAs of nine circles<sup>8</sup> showed that in 109 out of total 378 set aside cases involving money value of ₹ 25.54 crore, no reassessment proceedings had been initiated by the circles till the date of audit (July 2016) although periods ranging from more than one to six years had elapsed from the dates of disposal. Audit observed that out of total 109 set aside cases pending for reassessment, 77 cases involving revenue of ₹ 24.20 crore (70 per cent) were more than 2 to 4 years old. Because of non-initiation of reassessment proceedings, potential revenue involved in these cases remained unrealised. It was further observed that the DCCT, Angul Circle did not maintain 'Set Aside Register'.

The AAs of Angul, Dhenkanal, Balasore, Bhadrak and Mayurbhanj circles stated (between May and July 2016) that the cases would be assessed shortly. The AAs of Rourkela I and II circles stated (June 2016) that out of total 51 cases set aside, 22 cases had not been received by them. This was

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<sup>6</sup> Addl. CCT (Appeal), Central Zone, Cuttack.

<sup>7</sup> Circular No. 20987 / CT, dated 10 December 2012.

<sup>8</sup> Angul, Balasore, Bhadrak, Cuttack-II, Dhenkanal, Jagatsinghpur, Mayurbhanj, Rourkela-I and Rourkela-II.



pointed out to the appellate authorities of Sundargarh Range and the reply is awaited. In respect of set aside cases relating to Cuttack-II and Jagatsinghpur circles, the JCCT of Cuttack II Range stated that instructions had been issued to the AAs of concerned circles to expedite disposal of such cases. Regarding non-maintenance of 'Set Aside Register', DCCT, Angul Circle stated (May 2016) that although the register was not maintained, yet the set aside cases were being marked immediately in the Demand Collection Register against the original assessment. The reply was not tenable since the procedure adopted by the circle was not in conformity with the instructions of the CCT.

#### **2.4.4.8 Shortfall in achievement of targets in disposal of appeal cases**

In order to dispose of the appeals within the stipulated time and ensure building confidence of the stakeholders and enhance the effectiveness and credibility of the tax administration, the CCT had issued (August 2012) instructions<sup>9</sup> to the first appellate authorities to exercise more urgency in clearing up the backlog as well as present cases. Considering the exigencies of the issue, the first appellate authorities i.e. JCCTs and DCCTs of ranges were called upon to prioritise long pending cases and dispose of a minimum number of cases per month as given below.

Designation of the first appellate authority	Minimum number of Appeal cases to be disposed of per month.
JCCT	8
DCCT (Appeal)	22

As per the above targets, the JCCT and DCCT (Appeal) of each range were to dispose of 360 first appeal cases<sup>10</sup> during a year. Accordingly, the JCCTs and DCCTs of all the 12 ranges of the State had to dispose of 12,168 appeal cases during the period from 2012-13 to 2014-15. However, Audit observed that against 12,168 cases, the JCCTs and DCCTs of all the 12 ranges of the State disposed of only 6,330 cases during 2012-15 thereby resulting in a shortfall of 5,838 cases (47.98 per cent). The details are given below:

Year	Target	Achievement in disposal of cases ( i n n u m b e r s )	Shortfall in achievement	Percentage of shortfall
2013-14	4,056*	2,503	1,553	38.29
2014-15	3,792#	1,822	1,970	51.95
<b>Total</b>	<b>12,168</b>	<b>6,330</b>	<b>5,838</b>	<b>47.98</b>

\* One post of DCCT was vacant in Balangir Range during 2013-14

# Two posts of DCCT were vacant in Angul and Balangir Ranges during 2014-15

From the information furnished by four test checked ranges for the period 2012-15, Audit observed that taking the opening balance of pending cases of 1,048 at the beginning of the year 2012-13 and 2,674 cases received during the period 2012-13 to 2014-15, a total of 3,722 appeal cases were available for disposal during the period. As per the target fixed by the CCT, the JCCTs and DCCTs of the above ranges had to dispose of 4,320 cases during 2012-15. However, it was observed that only 1,890 cases (43.75

<sup>9</sup> CCT's letter No. II (II) 01/2012-13993/CT, dated-18 August 2012.

<sup>10</sup> (JCCT: 8 +DCCT: 22) × 12 months = 360

per cent) were disposed of during the period. Thus, due to shortfall in achievement, 1,832 cases remained undisposed of at the end of 2014-15. Despite non-achievement of targets, no action was initiated by the CCT against the JCCTs and DCCTs.

In reply Government stated (October 2016) that instructions would be issued to achieve the targets fixed by the CCT and the Addl. CCT (SR II) would monitor the disposal of the cases regularly and keep the CCT informed.

#### **2.4.4.9 Non-adherence to executive instructions for utilisation of VATIS for appeal / revision cases**

With the intention of streamlining the disposal of appeal / revision cases, a system was put in place by the CT Wing of the Department to link the audit assessments with appeal cases through VATIS. In his order<sup>11</sup> dated 18 September 2014, the CCT directed all the appellate / revision authorities except Odisha Sales Tax Tribunal to enter the data of petitions in the VATIS from 20 September 2014 onwards and generate receipts to be handed over to the petitioners or their authorised representatives. Besides, all the appellate / revision authorities were directed to scrupulously ensure that the petitions received were entered and the appeal orders uploaded in the VATIS. Further, all the legacy data were also required to be entered in VATIS.

Scrutiny of information furnished by three<sup>12</sup> out of the four test checked ranges and the Additional CCT, North Zone observed that against 218 petitions received by the above four units during 19 September 2014 to 31 March 2015, the details of only 53 petitions were entered in VATIS and the details of the remaining 165 petitions<sup>13</sup> were not entered by three units. Similarly, out of 154 orders passed by the appellate authorities of the above four units, 45 orders were uploaded in VATIS by the JCCT, Balasore Range and 109 orders were not uploaded by the remaining three units. As regards entry of legacy data, none of the above four units had entered even a single petition out of 2,163 such petitions received prior to 19 September 2014. The JCCT, Sundargarh Range did not furnish any information regarding entering appeal details and uploading appeal orders in VATIS. Thus, the instructions of the CCT for entering and uploading data relating to appeals/ revisions in the VATIS were not complied with and the purpose of linking of audit assessments with appeal cases for streamlining disposal of appeal cases could not be achieved.

In reply, Government stated (October 2016) that steps would be taken for uploading the appeal records along with the legacy data in VATIS and the Addl. CCT (SR-II) would monitor this every fortnightly and report to the CCT.

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<sup>11</sup> Office Order No. II (II) 01/2012-14911/CT, dated-18 September 2014.

<sup>12</sup> Angul, Balasore and Cuttack-II.

<sup>13</sup> Balasore Range: 18, Cuttack-II Range: 45 and Addl. CCT, North Zone: 102.

#### **2.4.4.10 Non-production of records/ information relating to revision cases**

Despite requisition of records and information relating to revision cases disposed of during 2012-15 and cases pending for disposal as of March 2015 in the CT Wing of the Department and issue of subsequent reminders, the CCT did not produce such records/ information. As a result, Audit could not ascertain the position of pendency and disposal of such cases.

#### **2.4.5 Conclusion**

The audit of “Pendency and Disposal of Review and Appeal cases in Commercial Tax Department and their impact on revenue collection” revealed several deficiencies. While there was absence of executive instructions for time-bound disposal of appeal cases till October 2012, appellate authorities unnecessarily delayed the disposal of appeal cases which resulted in blocking of substantial amount of Government revenue affecting the State exchequer. The appellate authorities also did not adhere to the provisions of laws regarding jurisdiction of appeals while admitting appeal petitions. Appeals were irregularly admitted beyond the stipulated period of 30 days and mandatory deposits of 20 *per cent* of tax in dispute were not realised from appellants before admitting the appeals. There were also shortfalls in achievement of targets fixed for disposal of appeal cases by the appellate authorities.

## **2.5 Audit of “System in the State for recovery of arrears of revenue in Commercial Tax Department”**

### **2.5.1 Introduction**

Commercial Taxes (CT) are the major source of revenue of Government of Odisha. These are collected under the Odisha Value Added Tax (OVAT) Act, 2004, the Central Sales Tax (CST) Act, 1956 and the Odisha Entry Tax (OET) Act, 1999 and Rules framed thereunder. The assessment, levy and collection of taxes under these Acts are entrusted to the Commercial Tax (CT) Wing of the Finance Department. Tax, interest and penalty etc. assessed and demanded under these Acts, are to be paid by the dealers within the due dates prescribed in the Acts and Rules. In the event of default, the assessing authorities (AAs) are required to initiate tax recovery proceedings against the defaulters as per the provisions of these Acts, Rules made thereunder and executive instructions for recovery of the arrears. As of March 2015, arrears of commercial taxes amounting to ₹ 6,622.37 crore was locked up at various stages. Since locking up of arrears affects the ways and means position of the State exchequer, audit was taken up between April and July 2016 in 10<sup>14</sup> out of the total 45 circles under the CT wing of the Department covering the period from 2012-13 to 2014-15 to ascertain whether the provisions of the Acts, Rules and executive instructions for recovery of arrears were being followed and tax recovery proceedings initiated for recovery of arrears were being pursued effectively by the Department. Audit test checked high value cases of arrears exceeding ₹ 1 lakh and observed several system and compliance deficiencies which affected the process of recovery of arrears as discussed in the succeeding paragraphs.

### **2.5.2 Organisational Setup for recovery of arrears**

The Deputy Commissioners of Commercial Taxes (DCCTs), Assistant Commissioners of Commercial Taxes (ACCTs) and the Commercial Tax Officers (CTOs) of 45 circles under the CT wing of the Department being the assessing authorities (AAs) are responsible for assessment and collection of commercial taxes. In cases of default in payment of the tax demanded, the AAs have been authorised to exercise the powers of Tax Recovery Officers (TROs) within the local limits of their respective jurisdictions for realisation of arrears by initiation and execution of certificate<sup>15</sup> cases against the defaulters. The Commissioner of Commercial Taxes (CCT), Additional CCT and JCCT monitor the recovery of arrears periodically.

### **2.5.3 Procedures for recovery of arrears**

The systems and procedures for recovery of arrears prescribed in Subsections 4, 5 and 7 of Section 50 of the OVAT Act, 2004 read with Rule

<sup>14</sup> Barbil, Balangir, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Cuttack-I West, Kalahandi, Keonjhar, Jajpur and Rourkela-I.

<sup>15</sup> Certificate cases are initiated and executed by the Tax Recovery Officers as per the procedures laid down in the Schedule to the Odisha Value Added Tax Act, 2004.

54 of the OVAT Rules, 2005, Subsections (2)(ii) and (4) of Section 11 of the OET Act, 1999, Rules 16(1)(2) and 22 of the CST (Odisha) Rules, 1957, instructions (December 2012) of the Commissioner of Commercial Taxes (CCT), Odisha and the Tax Recovery (TR) Schedule of OVAT Act are as follows:

- After an assessment is completed, the AA shall serve a demand notice to the dealer directing him to pay the tax assessed within 30 days of service of such notice and to produce the proof of payment within seven days from the date of payment.
- Where a dealer fails to pay the tax demanded within 30 days, the AA shall, after giving an opportunity of being heard, direct him to pay the tax along with penalty imposable for non-payment of tax within the specified date with the instruction that in the event of failure to do so, the unpaid amount shall be recovered as arrears of public demand as per the procedures laid down in the Schedule-E to the OVAT Act.
- In the case of default in payment despite issue of the above notice, the AA shall forward a certificate requisition in Form-1 to the TRO for recovery of the arrears, who in turn shall initiate the TR proceedings by issuing a notice to the defaulting dealer in Form-2 directing him to pay the dues within 15 days from the date of serving of the second notice.
- In case the amount is not paid within 15 days or such further time as the TRO may grant, he shall proceed to realise the amount by issue of warrant and attachment of property of the defaulter.

Further, as per Section 34 of the OET Act, 1999 and Rule 22 of CST (Odisha) Rules, 1957, the provisions of the OVAT Act, 2004 and the Rules made thereunder shall apply *mutatis mutandis* in respect of all procedural and other matters incidental to the carrying out of the purposes for which no provision is made in the OET Act and the CST Act or the Rules made thereunder.

#### **2.5.4 Position of arrears at different levels**

The position of arrears locked up at different levels as on 31 March 2015 (excluding the arrears of ₹ 753.38 crore under the erstwhile Odisha Sales Tax Act) is detailed in the table below.

Name of the Act	Gross amount of arrears under the Act	Arrears proposed to be written off	Net amount of arrears	Amount covered under stay by				Total amount under stay	Balance under recovery proceedings
				Supreme Court	High Court	CCT	Joint CCT		
OVAT	3,085.59	1.42	3,084.17	3.62	1,404.93	343.34	64.14	1,816.03	1,268.14
CST	1,644.39	0.03	1,644.36	231.60	311.54	351.07	14.95	909.16	735.20
OET	1,892.39	0.04	1,892.35	31.77	686.64	329.44	18.71	1,066.56	825.79
<b>Total</b>	<b>6,622.37</b>	<b>1.49</b>	<b>6,620.888</b>	<b>266.99</b>	<b>2,403.11</b>	<b>1023.85</b>	<b>97.80</b>	<b>3,791.75</b>	<b>2,829.13</b>

Source: Information furnished by the CCT, Odisha

It can be seen from the above table that out of the total arrears of ₹ 6,622.37 crore, an amount of ₹ 1.49 crore (0.02 per cent) was proposed to be written off and an amount of ₹ 3,791.75 crore (57.26 per cent) was locked up at different judicial / departmental appellate fora. Thus, the remaining arrears of ₹ 2,829.13 crore (42.72 per cent) were to be recovered by the Department through the TR proceedings.

### 2.5.5 Trend of collection of arrears

Trend of collection of arrears of revenue during the last three years upto 31 March 2015 is given in the table below.

(₹ in crore)

Years	Arrears at the beginning of the year	Arrears added during the year	Total of Arrears (Col 2 + 3)	Arrears collected during the year	Arrears reduced in appeal during the year	Arrears at the end of the year (Col. 4-5-6)	Percentage of collection of arrears (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2012-13	3,688.97	2,794.47	6,483.44	76.04	1,478.97	4,928.43	1.17
2013-14	4,928.43	3,960.47	8,888.90	97.34	805.79	7,985.77	1.09
2014-15	7,985.77	1,750.64	9,736.41	343.92	2,770.12	6,622.37	3.53
<b>Total</b>		<b>8,505.58</b>		<b>517.30</b>	<b>5,054.88</b>		

Source: Information furnished by the CCT(O)

Although the arrears increased by 79.52 per cent from ₹ 3,688.97 crore as on 1 April 2012 to ₹ 6,622.37 crore as on 31 March 2015, the amount of arrears recovered was 7.25 per cent<sup>16</sup> of the total arrears due for recovery after deducting the amount reduced in appeal during the above three years.

## Audit Findings

### 2.5.6 System Deficiencies

Audit observed deficiencies in the system and non-adherence to the prescribed system in the test-checked circles as discussed below.

#### 2.5.6.1 Non-fixation of targets for collection of arrears

In view of the increasing trend of outstanding arrears from year to year, the CCT reviewed the status of recovery on a monthly basis. However, no target for recovery of arrears was fixed for the circles during the years 2012-13 and 2014-15. The year-wise details are given below:

(₹ in crore)

Year	Gross Amount of Arrears	Amount stayed	Amount left for recovery	Target fixed for collection	Actual collection during the year	Percentage of collection to target fixed	Percentage of collection to total recoverable arrears
2012-13	4,928.43	1,928.01	3,000.42	No target	76.04	--	2.53
2013-14	7,985.77	3,116.60	4,869.17	150.00	97.34	64.89	1.99
2014-15	6,622.37	3,791.75	2,830.62	No target	343.92	--	12.14

Source: Information furnished by the CCT, Odisha

<sup>16</sup> ₹ 517.30 ÷ (₹ 3,688.97 + ₹ 8,505.58) × 100 = 4.24

For the year 2013-14, though targets were fixed, the collection was 1.99 per cent of the total arrears pending recovery at the beginning of the year.

#### **2.5.6.2 Ineffective system for review of arrear cases by the supervising authorities**

The CCT, in his letter dated 10 December 2012, instructed all concerned that in all cases of arrears exceeding ₹ 25 lakh, the JCCTs of the concerned ranges should personally monitor and review the arrear cases on a monthly basis and issue necessary instructions to the circle officers / assessing officers / TROs to expedite the collection of revenue.

Audit observed that no periodical reports / returns were prescribed for the JCCTs for submission in support of reviews conducted by them. To an Audit query, the TROs of the test-checked circles stated that reviews of arrear cases on a monthly basis had been done. However, no periodical review report containing the suggestions/ recommendations of the JCCT and the action taken thereon by the circles was furnished to Audit. Hence, Audit was not able to verify authenticity of the statements of TROs.

### **2.5.7 Compliance Deficiencies**

Audit examined 493 records relating to collection of arrears made available out of a total of 1,151 records requisitioned in 10 test-checked circles and observed that the prescribed provisions of the Acts, Rules and the executive instructions were not complied with in some cases as discussed in the succeeding paragraphs.

#### **2.5.7.1 Certificate requisitions (Form-1) not issued in case of default in payment of tax after issue of show-cause notices**

As per Clause 2 of the Schedule-E to the OVAT Act, where an assessee or dealer is in default or is deemed to be in default in making payment of tax or any other amount due under the Act, the AA may forward to the TRO a certificate requisition in Form-1 under his signature specifying the amount of tax and any other amount due from the assessee or dealer. The CCT in his letter<sup>17</sup> dated 10 December 2012 instructed that the certificate requisition in Form-1 to the TRO should be issued within six months from the date on which the demand becomes due for collection.

Audit observed in nine<sup>18</sup> out of ten test-checked circles that in 213 cases, although the defaulting dealers did not pay the tax dues even after issue (between December 2009 and December 2015) of show-cause notices for realisation of tax dues of ₹ 66.86 crore demanded during 2006-07 to 2014-15, the AAs did not issue certificate requisitions in Form-1 to the TROs for initiation of tax recovery proceedings. Thus, arrear dues of ₹ 66.86 crore has remained unrealised even after lapse of 4 to 76 months since the date of issue of show-cause notices.

After Audit pointed this out, the DCCTs of Barbil, Bhubaneswar-I,

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<sup>17</sup> Letter No. 21012/ CT, dated 10 December 2012.

<sup>18</sup> Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Cuttack-I West, Kalahandi, Keonjhar, Jajpur and Rourkela-I.

Bhubaneswar-II, Bhubaneswar-III, Cuttack-I West, Kalahandi, Jajpur and Keonjhar circles stated (between May and July 2016) that action would be taken after examining the cases. However, DCCT of Rourkela-I Circle did not offer any specific comments.

### **2.5.7.2 Non-initiation of tax recovery proceedings in time led to loss of Government revenue**

As per Sub section 4 of Section 50 of the OVAT Act, the amount of tax not paid along with return and net tax and penalty payable as assessed under different sections of the Act shall be paid by the dealer within 30 days from the date of service of demand notice. As per Sub section 5 of the Section *ibid*, if the dealer fails to pay such tax and penalty within the due date, the AA, after giving him the opportunity of being heard through issue of a show-cause notice, direct the dealer to pay, in addition to the amount due, a penalty at the rate of two *per cent* of such amount per month. As per Sub section 7, all amounts remaining unpaid after the due date of payment in pursuance of the above notices, shall be recoverable as arrears of public demand in accordance with the provisions contained in Schedule-E appended to the Act. However, as per Section 56 of the Act, no proceedings for recovery of any amount under Sub section 7 of Section 50 shall be initiated after expiry of five years from the date the amount became due for payment.

Audit observed in four<sup>19</sup> out of ten test-checked circles that in 142 cases involving revenue of ₹ 13.87 crore demanded between 2005-06 and 2010-11, AA had not initiated any action for issue of TR proceedings by issuing certificate requisition in Form-1 although more than five years had already elapsed from the respective due dates of payment. As per the provisions of the Act, these cases had become barred by limitation of time for initiation of TR proceedings. Thus, inaction by the Department for issue of Form-1 resulted in Government revenue of ₹ 13.87 crore becoming time-barred.

After Audit pointed out these cases, DCCTs of Barbil, Bhubaneswar-I and Cuttack-I West stated (May and July 2016) that appropriate action would be taken after examination of these cases. DCCT, Rourkela-I did not submit any specific reply.

### **2.5.7.3 Notices in Form-2 issued but not served due to closure of business**

The CCT in his letter<sup>20</sup> dated 10 December 2012 instructed that the certificate requisition in Form-1 to the TRO should be issued within six months from the date on which the demand becomes due for collection. He also instructed that the TRO should issue notice in Form-2 within 15 days from the date of receipt of Form-1.

Audit observed in four<sup>21</sup> circles that in 12 cases involving arrears of ₹ 24.55 crore demanded during 2009-10 to 2013-14, the AAs had issued Form-1

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<sup>19</sup> Barbil, Bhubaneswar-I, Cuttack-I West and Rourkela-I.

<sup>20</sup> Letter No. 21012/ CT, dated 10 December 2012.

<sup>21</sup> Bhubaneswar-III, Balangir, Kalahandi and Rourkela-I.



after 6 to 57 months from the due dates of collection. Similarly, in 3 out of the above 12 cases, the TROs had issued Form-2 with delays ranging from one to six months. Due to delay in issue of Form-1 and Form-2, the said notices could not be served on the dealers concerned as they had already left the places after closing their businesses. In 5 out of the above 12 cases, show-cause notices issued by the AA of Rourkela-I Circle under Section 50 (5) of the OVAT Act, were also not served on three dealers due to closure of business. Thus, due to delay in initiation of tax recovery proceedings despite the above instructions of CCT, arrear dues of ₹ 24.55 crore remained unrealised.

After Audit pointed this out, the TROs stated (between May and July 2016) that appropriate action would be taken after examination of the cases.

#### **2.5.7.4 Tax recovery proceedings initiated but not followed up**

As per Schedule-E to the OVAT Act, in case the amount mentioned in the notice issued in Form-2 is not paid within 15 days or such further time as the TRO may grant, he shall proceed to realise the amount by issue of warrant and attachment of property of the defaulter.

Audit observed in five<sup>22</sup> out of ten test-checked circles that in 54 cases involving arrears of ₹ 8.85 crore assessed during 2009-10 to 2014-15, although the TROs had initiated TR proceedings by issue of notices in Form-2 to the defaulting dealers, the said proceedings were not followed up by the TROs as per the provisions of the Schedule-E i.e. collection of information on movable and immovable properties of the defaulting dealers, issue of warrants and attachment of the properties of the dealers for sale by public auction to recover Government dues. Thus, lack of follow up action by the TROs resulted in non-recovery of ₹ 8.85 crore.

After Audit pointed out the cases, the TROs stated (during May and July 2016) that appropriate action would be taken after examination of the cases.

#### **2.5.7.5 Non-levy of penalty despite default in payment of dues**

As per Section 50(5) of the OVAT Act, where a dealer fails to make payment of the tax assessed, interest payable or penalty imposed or any other amount due from him under the Act within 30 days of the date of service of the notice of demand, the AA shall, after giving the dealer a reasonable opportunity of being heard, direct that such dealer shall pay, in addition to the amount due for payment, by way of penalty, a sum equal to two *per cent* of such amount of tax, interest, penalty or any other amount due, for every month for which payment has been delayed by him after the date on which such amount was due to be paid. As per Rule 16(2) of the CST (Odisha) Rules, where a dealer fails to make payment of the tax assessed, interest payable or penalty imposed or any other amount due from him under the Act or the Rules within the date specified in the notice in Form VII, the AA may impose penalty equal to two *per cent* of such amount of tax, interest, penalty or any other amount due and serve a notice

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<sup>22</sup> Bhubaneswar-II, Cuttack-I West, Jajpur, Kalahandi and Keonjhar.

in Form VIII directing the dealer to pay the penalty together with sums previously due by a date to be fixed in the notice and to produce the proof of payment by a date to be specified in the said notice. As per Section 11 (2)(ii) of the OET Act, the dealer or any other person or persons liable to pay the tax under the Act shall pay a penalty equal to two and half *per cent* of such amount for each month subsequent to the first three months from the due date of payment.

Audit observed in six circles<sup>23</sup> that in 96 cases involving arrear dues of ₹ 25 crore, though show-cause notices had been issued to the concerned dealers, penalty of ₹ 7.04 crore was not imposed as per the above provisions of the Act. Similarly, in three circles<sup>24</sup>, certificate requisitions in Form-1 were issued for realisation of arrear dues of ₹ 25.76 crore in 37 cases without imposing penalty of ₹ 10.16 crore. These dues had remained unrealised till the date of audit.

After Audit pointed out these cases, the DCCTs of Barbil, Bhubaneswar-I, Cuttack-I West, Kalahandi, Jajpur and Keonjhar circles stated (between May and July 2016) that appropriate action would be taken after examination of the cases. DCCTs of Balangir and Rourkela-I circles did not furnish any specific reply.

#### **2.5.7.6 Non-issue of show-cause notices and penalty leviable thereon**

Audit observed in Bhubaneswar-II Circle that in 89 cases involving tax dues of ₹ 3.71 crore demanded during the period from 2012-13 to 2014-15, show-cause notices had not been issued till the month of audit (May 2016) although such notices were required to be issued after the due dates of payment of the dues. The period elapsed from the due date of payment of the dues till the date of audit ranged between 4 and 35 months. This contravened the provisions of the Acts and the Rules as well as executive instructions. Besides, penalty of ₹ 1.09 crore was impossible as per the provisions of Section 50(5) of the OVAT Act, Section 11 (ii) of the OET Act and Rule 16 (2) of the CST (Odisha) Rules.

After Audit pointed this out, DCCT, Bhubaneswar-II Circle stated (May and July 2016) that appropriate action would be taken after examination of the cases.

#### **2.5.7.7 Non-maintenance of registers / records prescribed for monitoring recovery of arrears**

The CCT, in his circular<sup>25</sup> dated 28 April 2008 had prescribed a register namely Demand Collection Register (DCR) for watching the status of collection of tax, interest and penalty, etc. demanded during assessments. Similarly, the demanded revenue remaining non-realised at the end of the year is to be entered in a Consolidated Demand Collection Register (CDCR) through which the status of the demand is watched and updated from time to time until final recovery / adjustment. The above registers are

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<sup>23</sup> Barbil, Bhubaneswar-I, Cuttack-I West, Jajpur, Kalahandi and Keonjhar.

<sup>24</sup> Balangir, Kalahandi and Rourkela-I.

<sup>25</sup> Circular No. 7728/ CT, dated 28 April 2008.

required to be reviewed periodically by the concerned AAs and updated with the latest position of recovery and/ or appeals pending in the appellate forum / court. The CCT, in his letter<sup>26</sup> dated 10 December 2012, instructed the AAs to complete the updation of DCRs / CDCRs by 31 December 2012. He also instructed the Joint Commissioners of Commercial Taxes (JCCTs) and other senior supervisory officers to record their remarks regarding correct maintenance of the said register at the time of their visits to the circles.

From the information furnished by the test-checked circles, Audit observed that four<sup>27</sup> out of ten circles had not maintained the CDCRs for the years from 2012-13 to 2014-15.

Further, it was observed that the registers / records such as (1) Register for Recovery as per Tax Recovery Schedule, (2) Register of Show Cause under Section 50(5) of the OVAT Act, (3) Requisition Register for Tax Recovery and (4) Tax Recovery Register prescribed by CCT in his circular dated 28 April 2008 for monitoring recovery of arrears were not maintained by any of the test-checked circles. It was observed that neither the CCT had monitored the maintenance of these registers nor any action was taken for non-maintenance of these records.

Non-maintenance of the above records showed that internal controls were lax. Audit was not able to examine timely payment of tax, time taken for issue of show-cause notices after failure in payment of tax by assesses and the average time taken for issue of Form-1 and Form-2 against the stipulated period of 15 days. In the absence of these registers, Audit was also not able to ensure if the steps as enumerated in the codal provisions of the Act for the recovery of arrears were taken in a time bound manner.

#### **2.5.7.8 Non-pursuance of cases of arrears stayed by appellate authorities**

The CCT had issued instructions (October 2012) to the first appellate authorities of the Department that no appeal case should remain pending for more than 26 weeks. Further, the CCT had instructed (December 2012) the officers at all levels that in high value cases, action should be taken for filing petitions before different appellate authorities to vacate stays or dispose of appeals.

As per the information furnished by CCT in respect of outstanding arrears, out of a total arrears of ₹ 6,622.37 crore under different Acts excluding OST pending for recovery as of March 2015, a sum of ₹ 3,791.75 crore (57.26 *per cent*) had remained stayed at different levels. This included arrears of ₹ 1,121.65 crore, which were stayed by the CCT and JCCTs without being disposed of. Audit analysed the information relating to the stayed cases and observed that out of the total arrears of ₹ 3,791.75 crore, the recovery of which was stayed by appellate authorities, an amount of

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<sup>26</sup> Letter No. 21012/ CT, dated 10 December 2012.

<sup>27</sup> Bhubaneswar-I, Bhubaneswar-II, Cuttack-I West and Keonjhar.

₹ 2,655.88 crore<sup>28</sup> (70.04 per cent) related to the test-checked circles. Out of the same, arrears of ₹ 384.53 crore relating to the period from April 2005 to March 2015 were locked up with the first appellate authorities of the Department although more than one year had elapsed from the dates of appeal in each case. Thus, the first appellate authorities had failed to comply with the instructions of the CCT for disposal of pending appeal cases within 26 weeks. Further, the AAs of the above circles could also not produce any documents to Audit in support of initiatives taken by them in filing petitions for vacation of stays and early recovery of the arrears. This underscores the fact that the instructions of the CCT were not complied with by the AAs.

### 2.5.7.9 Details of arrear cases not uploaded into VATIS

As per the orders (December 2012) of the CCT, all pending arrear cases were required to be entered in the arrear module of VATIS<sup>29</sup> by the circle office and updated regularly. The CCT had also been monitoring the updation of the arrear module in VATIS through monthly video conferencing.

During test check of the DCRs in six<sup>30</sup> out of ten test-checked circles for the period 2012-13 to 2014-15 and further verification of the information collected from VATIS, Audit observed that the details of 360 cases involving arrears of ₹ 257.93 crore had not been uploaded into the arrear module of VATIS till the date of audit (between April and June 2016). As a result, the amount of arrears as per VATIS was less than the actual due to delay in uploading the cases on the software. Thus, monitoring the compliance of the executive instructions was ineffective.

After Audit pointed this out, the DCCTs of Bhubaneswar-I, Bhubaneswar-II, Cuttack-I West, Kalahandi and Rourkela-I stated (between May and July 2016) that the same would be updated. DCCT, Balangir did not offer any specific reply.

### 2.5.8 Analysis of robustness of system for demand and collection of arrears

To ascertain the robustness of the system adopted for demand and collection of arrears, Audit test checked the DCRs in Bhubaneswar Circle for the year 2014-15. Audit analysed all the 185 assessments involving demand of ₹ 41.04 crore finalised during 2014-15 and subsequent processes beginning from service of demand notices to concerned dealers upto the follow-up of the tax recovery proceedings. It was observed that out of the total 185 demands raised during the year, full payment of the demanded amount of ₹ 22.11 lakh was made in 65 cases while 34 cases involving demand of ₹ 7.08 crore were stayed in appeal. Thus, the remaining 86 cases involving demand of ₹ 33.97 crore which were not stayed in appeal

<sup>28</sup> Stayed by Supreme Court: ₹ 316.34 crore, High Court: ₹ 1707.11 crore, Odisha Sales Tax Tribunal: ₹ 247.90 crore and First Appeal: ₹ 384.53 crore.

<sup>29</sup> VATIS: Value Added Tax Information System.

<sup>30</sup> Balangir, Bhubaneswar-I, Bhubaneswar-II, Cuttack-I West, Kalahandi and Rourkela-I.

remained to be realised through tax recovery proceedings. On further analysis, the following points were observed:

#### **2.5.8.1 Delay in issue and service of Demand Notice**

Audit observed that out of the total 185 cases, demand notices were served within 30 days in 125 cases (67.57 per cent) involving demand of ₹ 31.08 crore, while in 48 cases involving demand of ₹ 2.80 crore, demand notices were served beyond 30 days and within 90 days and in 11 cases involving ₹ 7.10 crore, demand notices were served after 90 days. In one case, involving demand of ₹ 6.55 lakh, demand notice was not served on the dealer till the date of audit (July 2016) although the case was assessed in February 2015. Thus, the Circle did not ensure that demand notices were served, soon after finalisation of the assessments or within a reasonable period of thirty days, in 60 cases (32.43 per cent) involving demand of ₹ 9.96 crore.

#### **2.5.8.2 Non-issue/ delay in issue of show-cause notices**

Out of 86 cases involving demand of ₹ 33.97 crore not stayed in appeal, 6 cases were set aside / reduced by the appellate authorities. Audit observed that out of the remaining 80 cases, show-cause notices in respect of 37 cases involving demand of ₹ 9.62 crore were issued within 30 days and in 42 cases<sup>31</sup> involving ₹ 6.93 crore, such notices were issued after 30 days from the due dates of payment. Show-cause notice was not issued in respect of the remaining one case involving demand of ₹ 6.55 lakh.

#### **2.5.8.3 Non-issue of certificate requisitions in Form-1 and notices to dealers in Form-2**

Out of 80 cases (excluding 6 cases set aside/ reduced) involving demand of ₹ 16.63 crore, tax recovery proceedings were initiated only in two cases involving ₹ 11.51 lakh and in the remaining 78 cases (97.5 per cent) involving arrears of ₹ 15.48 crore, tax recovery proceedings through issue of certificate requisition in Form-1 by the AA and issue of notices to the dealers in Form-2 by the TRO had not been initiated till the date of audit (July 2016) even after lapse of 3 to 21 months.

#### **2.5.8.4 Delay in payment of demanded tax by the dealers**

Out of 65 cases in which the demanded amount had been paid in full, Audit observed that in 29 cases, payments were made within the prescribed period of 30 days from the date of service of demand notices and in the remaining 36 cases (55 per cent), payments were made with delays ranging from 5 to 553 days from the due dates of payment. The Circle did not take any action as per the provisions of the Act.

### **2.5.9 Conclusion**

Audit of system in the State for recovery of arrears of revenue showed several system and compliance deficiencies. While targets were not fixed

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<sup>31</sup> Beyond 30 days and within 90 days: 32 cases (₹ 6.84 crore), Beyond 90 days: 10 cases (₹ 0.09 crore).

regularly for collection of arrears, the systems prescribed for maintenance of records / registers required for collection of arrears, pursuance of stayed cases of arrears were not followed at all. Despite provision of an arrear module in the Value Added Tax Information System, the details of arrears in some cases were not uploaded / updated. Non-issue of certificate requisitions for recovery of arrears and not following up the tax recovery proceedings already initiated in some cases led to blockage of Government revenue. Initiation of tax recovery proceedings beyond the time allowed in the Acts and the Rules resulted in loss of Government revenue as those cases became time-barred. Penalty imposable as per the provisions of the Act was not levied at the time of issue of show-cause notices and while initiating tax recovery proceedings. Instructions issued by the Commissioner of Commercial Taxes prescribing procedures to be followed for collection of arrears were not complied with by the assessing authorities / tax recovery officers.

## **2.6 Other Audit Observations**

Audit test checked the assessment records relating to the Odisha Value Added Tax (OVAT), Central Sales Tax (CST) and Odisha Entry Tax (OET) Acts in commercial tax range / circle offices of the State and observed several cases of non-observance of provisions of the aforesaid Acts and Rules made thereunder which led to non-levy and short levy of tax and penalty as discussed in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit. Audit pointed out similar omissions on the part of the Assessing Authorities (AAs) every year; many of the irregularities, however, still persist and these also remain undetected till the next audit is conducted. This indicated that the internal control system in the Department was weak and ineffective. The Government needs to improve the internal control system including strengthening of internal audit so that occurrence of such cases can be detected, corrected and avoided in future.

### **Odisha Value Added Tax**

## **2.7 Non-observance/non-compliance of the provisions of Acts and Rules**

The Odisha Value Added Tax (OVAT) Act, 2004 and the Odisha Value Added Tax Rules, 2005 made thereunder provide for:

- completion of the audit assessments by the AAs on the basis of Audit Visit Reports (AVRs) and levy of tax on the correctly assessed Taxable Turnover (TTO) of outputs after giving due credit to / adjustment of admissible Input Tax Credit (ITC);
- imposition of penalty at the prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs;
- demand and collection of tax / interest / penalty as per the prescribed procedures; and
- imposition of penalty for non-submission of certified reports on annual audited accounts within the prescribed date.

The AAs, while finalising the audit assessments of the dealers for certain tax periods, did not observe some of the aforesaid provisions read with the Government notifications issued from time to time, as discussed in the following paragraphs:

### **2.7.1 Short levy of tax and penalty due to application of lower rate of tax**

As per Section 14 of the OVAT Act, 2004, tax payable by a dealer under the Act shall be levied on his taxable turnover (TTO) in respect of different goods at the rates specified in Schedules B and C appended to the Act. Goods not specified in Part II or IIA of Schedule B as well as Schedule C are taxable under Part III of Schedule B at the rate of 13.5 *per cent*.

Electrical goods and equipment such as battery and home UPS<sup>32</sup> being unspecified under Part II or IIA of Schedule B or Schedule C are taxable under Part III of Schedule B of the OVAT Act. Further, as per Section 42(5) of the Act, if any tax is additionally assessed during the audit assessment, penalty equal to twice the amount of tax so assessed has to be imposed on the dealer.

During test check of assessment records in Bhubaneswar-III Circle, Audit observed (November 2015) that the sales turnover of a dealer dealing in batteries and home UPS was assessed on 31 March 2015 for the tax period from 1 April 2012 to 31 March 2014 and the AA determined the TTO at ₹ 71.81 crore. Since the goods i.e. batteries and home UPS sold by the dealer were electrical goods / equipment, the entire TTO of ₹ 71.81 crore was taxable at the rate of 13.5 *per cent*. However, the AA, while finalising the assessment, levied tax at the rate of 13.5 *per cent* on the TTO of ₹ 70.12 crore and the remaining ₹ 1.69 crore representing the TTO of home UPS was taxed at the rate of 5 *per cent* instead of 13.5 *per cent*. Thus, levy of tax at lower rate on the TTO of home UPS resulted in short levy of tax of ₹ 14.41 lakh. Besides, penalty of ₹ 28.82 lakh was also imposable.

After Audit reported (April 2016) the matter, the Government stated (July 2016) that there was specific entry of UPS in Sl. 69 (g) of Part-II of Schedule B of the OVAT Act and the AA levied tax at the rate of 5 *per cent* on home UPS treating the same as UPS. The reply was not tenable since, as per under Sl. No. 69 of Part-II of Schedule B, Computer and its spare parts and accessories and IT Products were taxable at the rate of 5 *per cent*. Home UPS is nothing but an inverter and used for uninterrupted power supply in homes. It is neither a computer accessory nor an IT product and, hence, does not come under Sl. No. 69 of Part-II of Schedule B. Further, as per the judgement of Hon'ble Madras High Court dated 12 February 2015 in the case of Mahindra & Mahindra Limited vrs the Joint Commissioner (CT) [WP No. 3540 of 2015], home UPS is not classifiable as UPS under the category of IT products.

### **2.7.2 Short levy of tax and penalty due to irregular deduction of freight charges from gross turnover**

The term 'sale price' as defined under Section 2(46) of the OVAT Act, 2004, *inter alia*, means the amount of valuable consideration received or receivable by a dealer as consideration for the sale of any goods inclusive of any sum is charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof. As per explanation (a) below the Section *ibid*, where any sum is charged for freight, delivery, distribution, installation or insurance at the time of delivery or before delivery of such goods, it shall be included in the sale price. As per Section 42(5) of the OVAT Act, if any tax is assessed during audit assessment of a dealer, penalty equal to twice the amount of tax so assessed shall be imposed on the dealer.

<sup>32</sup> Home UPS: Home UPS (Uninterrupted Power Supply) is an inverter used for uninterrupted power supply to homes and is therefore different from normal UPS used for computers.



During scrutiny of assessment records of Joint Commissioner of Commercial Taxes, Angul Range, Audit observed (November 2015) that a dealer, engaged in manufacture of refractory bricks - monolithic and castables and mortar, had effected sale of finished goods valued at ₹ 61.76 crore inside the State during the tax periods from 1 April 2006 to 30 June 2010 which included tax exempted sale of goods valued at ₹ 2.75 crore to SEZ<sup>33</sup> and freight charges of ₹ 4.58 crore. The AA, while assessing the dealer under the OVAT Act for the above tax periods, had determined (August 2013) the gross turnover (GTO) at ₹ 61.76 crore. It was, however, observed that though freight charge of ₹ 4.58 crore was a part of taxable turnover, the AA had deducted the same from the GTO and levied tax on the remaining TTO of ₹ 54.43 crore. This resulted in underassessment of TTO by ₹ 4.58 crore and consequent short levy of tax of ₹ 18.53 lakh. Besides, penalty of ₹ 37.06 lakh was also imposable.

After Audit reported (April 2016) the matter, Government stated (July 2016) that the AA of Angul Range had reassessed (May 2016) the dealer and raised extra demand for tax of ₹ 18.53 lakh and penalty of ₹ 37.07 lakh.

### **2.7.3 Short levy of tax and penalty due to application of lower rate of tax on retreaded tyres**

As per Section 14 of the OVAT Act, 2004, tax payable by a dealer under the Act shall be levied on his TTO in respect of different goods at the rates specified in Schedules B and C appended to the Act. Goods not specified in Part II or IIA of Schedule B as well as Schedule C are taxable under Part III of Schedule B at the rate of 13.5 *per cent* with effect from 1 April 2011. Tyres including retreaded tyres, not specified under Part II or IIA of Schedule B or Schedule C, are taxable under Part III of the Schedule B of the OVAT Act. Further, as per Section 42(5) of the Act, if any tax is additionally assessed during the audit assessment, penalty equal to twice the amount of tax so assessed shall be imposed on the dealer.

During scrutiny of assessment records in Keonjhar Circle, Audit observed (January 2016) that the AA had assessed (May 2014) the sales turnover of a dealer, engaged in retreading of tyres, under the OVAT Act for the tax periods from 1 April 2011 to 31 March 2013 and determined the TTO at ₹ 56.33 lakh. However, instead of levying tax at the rate of 13.5 *per cent* on the entire TTO, the AA, while finalising the assessment, levied tax at the rate of 4 *per cent* on ₹ 25.63 lakh for the period from 1 April 2011 to 31 March 2012 and at 5 *per cent* on ₹ 30.67 lakh for the period from 1 April 2012 to 31 March 2013. Thus, application of lower rates of tax by the AA on retreaded tyres resulted in short levy of tax of ₹ 5.04 lakh. Besides, penalty of ₹ 10.08 lakh was also imposable.

After Audit reported the matter, Government stated (December 2016) that the AA has reassessed the case and raised demand (May 2016) of ₹ 15.12 lakh.

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<sup>33</sup> SEZ: Special Economic Zone

#### **2.7.4 Underassessment of sales turnover led to irregular allowance of excess input tax credit**

As per Section 11 of the OVAT Act, 2004 read with Rule 10 of the OVAT Rules, 2005, tax shall be levied on TTO of goods sold inside the State, determined after deduction of sales turnover which is not taxable. The dealer is liable to pay the net tax after adjustment of ITC towards tax paid on purchase of such goods inside the State.

During scrutiny of assessment records of a dealer in Cuttack-I Circle, Audit observed (November 2015) that during the period 1 April 2011 to 31 March 2013, the dealer effected gross sales valued at ₹ 37.53 crore (excluding tax) under the OVAT Act, which included sales turnover of tax exempted goods and first point taxable goods worth ₹ 10.91 crore. The TTO was thus ₹ 26.62 crore on which output tax<sup>34</sup> of ₹ 4.92 crore was leviable. Since the dealer had paid tax of ₹ 0.05 crore while filing the return, the remaining tax of ₹ 4.87 crore was to be adjusted against the ITC admissible. However, while finalising the assessment in March 2015, the AA erroneously levied output tax of ₹ 3.48 crore only on the sales turnover relating to the period from 1 April 2012 to 31 March 2013 by determining the GTO at ₹ 20.09 crore (excluding tax) and TTO at ₹ 15.19 crore. It was further observed that although the AA had assessed the transactions for the period from 1 April 2012 to 31 March 2013, he adjusted ITC of ₹ 4.87 crore pertaining to the period from 1 April 2011 to 31 March 2013 against the above output tax of ₹ 3.48 crore and allowed the dealer to carry forward the remaining ITC of ₹ 1.39 crore to the next tax period. Thus, erroneous underassessment of sales turnover led to irregular allowance of ITC of ₹ 1.39 crore.

After Audit reported (April 2016) the matter, Government stated (June 2016) that the AA reassessed (May 2016) the case and reversed the excess carried forward ITC of ₹ 1.39 crore.

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<sup>34</sup> Output tax is the amount of tax assessed on the TTO before adjustment of input tax credit.

### **2.7.5 Non-initiation of action against dealers for default in submission of Certified Audited Annual Accounts**

As per Section 65 (1) of the OVAT Act, 2004 read with Notification<sup>35</sup> of December 2012 of CCT, Odisha, if the GTO of a dealer during a financial year exceeds ₹ 60 lakh, he shall get his accounts audited and furnish a true copy of the audited accounts for that year duly certified by a chartered / cost accountant by 31 October of the next financial year to the AA concerned. However, for the year 2013-14, the CCT, in a Circular<sup>36</sup> of October 2014, allowed the dealers to submit their audited accounts, both manually and electronically by 31 December 2014. Section 65 (2) of the Act provides that in case the dealer fails to furnish or furnishes the certified audited annual accounts (CAAA) belatedly, the AA shall, after giving the dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred for each day of default in its submission. The CCT in an earlier Circular<sup>37</sup> of September 2009 had also prescribed for maintenance of a register to monitor timely submission of such accounts at the circle level and to use it as reference at the time of tax audit and assessment.

During scrutiny of registers relating to receipt of audited annual accounts in 27 circles<sup>38</sup>, Audit observed (between November 2015 and April 2016) that out of 14,344 dealers having GTO exceeding ₹ 60 lakh during 2013-14, as many as 6,166 dealers had not submitted the copies of CAAA for that year. Delays in submission of CAAA ranged from 304 to 456 days till the dates of Audit and warranted levy of penalty of ₹ 22.43 crore after giving those dealers reasonable opportunities of being heard as per the above provisions of the Act. However, the AAs had not initiated any action against the dealers for non-submission of CAAA.

After Audit pointed out the above cases, AAs of all the circles assured (between November 2015 and April 2016) of taking appropriate action for imposition of penalty on the defaulting dealers.

Audit reported the matter to the CCT, Odisha in May 2016 and the Government in June 2016; replies are awaited (November 2016).

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<sup>35</sup> Notification No. III (III) 14/ 2012-21114/ CT dated: 12 December 2012.

<sup>36</sup> Circular No. 16885 / CT / III (I) 52/2012 dated: 25 October 2014.

<sup>37</sup> Circular No. 18755 dated: 22 September 2009.

<sup>38</sup> Angul, Balangir, Balasore, Barbil, Bargarh, Bhadrak, Bhubaneswar-II, Bhubaneswar-III, Cuttack-I-Central, Cuttack-I-City, Cuttack-I-East, Ganjam-II, Jagatsinghpur, Jatni, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Mayurbhanj, Nabarangpur, Puri, Rayagada, Rourkela-I, Rourkela-II, Sambalpur-I and Sambalpur-II.

## Entry Tax

### 2.8 Non-observance / non-compliance of the provisions of Odisha Entry Tax Act / Rules

The Odisha Entry Tax (OET) Act, 1999 and Rules made thereunder, read with Government notifications issued from time to time, provide for levy of tax on the entry of scheduled goods into a local area<sup>39</sup> for consumption, use or sale therein at the prescribed rates and imposition of penalty at prescribed rates for the tax levied in audit assessment.

Audit observed that while finalising the assessments, the AAs did not observe the above provisions in the cases, as discussed in the following paragraphs:

#### 2.8.1 Non-levy of Entry Tax on Chemicals

As per Section 3(1) of the OET Act, 1999, scheduled goods that have entered into a local area for consumption, use or sale therein are taxable at rates prescribed in the Schedule appended to the Act. However, as per Sub-Rule 4 of Rule 3 of the OET Rules, 1999, scheduled goods used as raw materials in manufacture of finished products, shall be taxable at a concessional rate of 50 *per cent* of the rate of tax prescribed. Further, as per the provisions of Section 9C (5) of the Act, if any additional tax is assessed during audit assessment, penalty at twice the amount of tax so assessed shall be imposed on the dealer. Chemicals used for any purpose are taxable at the rate of one *per cent* as per Sl. No. 73 of Part I of the Schedule.

During scrutiny of assessment records under the OET Act in Bhadrak Circle, Audit observed (December 2015) that a dealer, engaged in manufacture of pesticides, had purchased goods valued at ₹ 237.54 crore during the period from 1 April 2007 to 31 March 2012, including raw materials such as ‘chemicals in technical grade pesticides’ valued at ₹ 154.34 crore which were purchased from outside the State. ‘Chemicals in technical grade pesticides’ are nothing but chemicals and are therefore taxable at the rate of 0.5 *per cent* when used as raw materials for production of pesticides. The AA, while finalising the assessment of the dealer under the OET Act for the above period, determined taxable turnover as ₹ 63.92 crore after deducting ₹ 173.61 crore from the gross purchase turnover of ₹ 237.53 crore towards value of goods declared by the dealer as non-scheduled and non-taxable under the OET Act. Audit, however, observed that the deduction of ₹ 173.61 crore, so allowed, included ₹ 154.34 crore towards purchase value of ‘chemicals in technical grade pesticides’ which were taxable. Thus, irregular deduction of purchase turnover of ₹ 154.34 crore, treating the same as non-scheduled goods, resulted in short levy of entry tax of ₹ 0.77 crore. Besides, penalty of ₹ 1.54 crore was also imposable.

<sup>39</sup> Local area means the area within the limits of any municipality, Grama Panchayat, other local authority by whatever name called, constituted or continued in any law for the time being in force and includes the area within an industrial township constituted under Section 4 of the Odisha Municipal Act, 1950.

After Audit reported (May 2016) the matter, Government stated (July 2016) that the AA of Bhadrak Circle had reassessed (May 2016) the dealer and raised demand for tax of ₹ 77.17 lakh and penalty of ₹ 1.54 crore.

### **2.8.2 Short levy of Entry Tax due to allowance of excess set-off**

As per Section 3 of the OET Act, 1999, scheduled goods that have entered into a local area for consumption, use or sale therein are taxable at the rates prescribed in the Schedule appended to the Act. Further, as per Section 26 of the Act, every manufacturer of scheduled goods who is registered under the OVAT Act shall, in respect of sale of his finished products to a dealer, shall collect by way of tax, an amount equal to the tax payable by the buying dealer on the value of such finished products under Section 3 of the Act. However, as per the proviso to the above Section read with Rule 19(5) of the OET Rules, 1999, the tax so payable by the manufacture shall be set off by the amount of entry tax paid on the purchase value of raw materials which directly go into the composition of such finished products. Further, as per Section 9C (5) of the Act, if any tax is assessed additionally during the audit assessment, penalty at twice the amount of tax so assessed shall be imposed on the dealer.

During scrutiny of the assessment records in two circles<sup>40</sup>, Audit observed (December 2015 and March 2016) that the AAs had assessed (September 2013 and March 2015) the transactions of two dealers under the OET Act for the tax periods between 1 April 2007 and 31 March 2012 and determined the tax liability at ₹ 44.51 lakh. However, instead of allowing set-off of ₹ 12.42 lakh admissible towards entry tax paid on purchase of raw materials against the tax payable on sale of finished products, the AAs had allowed set-off of ₹ 15.56 lakh. This resulted in allowance of excess set-off of ₹ 3.15 lakh. Besides, penalty of ₹ 6.29 lakh was imposable.

After Audit pointed out, the AAs stated (December 2015 and March 2016) that the cases would be re-examined.

Audit reported the matter to the CCT, Odisha in April 2016 and the Government in June 2016; replies are awaited.

### **2.8.3 Non-levy of Entry Tax on Minor Minerals**

As per Section 3(1) of the Odisha Entry Tax (OET) Act, 1999, there shall be levied and collected a tax on entry of scheduled goods into the local area<sup>41</sup> for consumption, use or sale therein. The rates at which tax is to be levied are prescribed in the Schedule appended to the Act. The dealer is liable to pay such tax while filing return under Section 7 of the Act. Minerals are taxable at the rate of one *per cent* of purchase value as per entry No. 59 of Part I of Schedule to the OET Act. As per Section 3(a) of

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<sup>40</sup> Angul and Rourkela-I Circles

<sup>41</sup> Local area: Local area means the area within the limits of any municipality constituted under the Odisha Municipal Act, 1950, Grama Panchayat constituted under the Odisha Grama Panchayats Act, 1964 and other local authority by whatever name called, constituted or continued in any law for the time being in force.

Mines and Minerals (Development and Regulation) Act, 1957, “minerals” include all minerals except mineral oils. Ordinary clay, sand, *morrum*<sup>42</sup> and chips etc., being minor minerals as per Odisha Minor Minerals Concession Rules, 2004, are taxable at the rate of one *per cent*. Further, Section 9C (5) of the Act provides for imposition of penalty equal to twice the amount of tax assessed during audit assessment.

During scrutiny of assessment records in Koraput Range, Audit observed (February 2016) that a dealer<sup>43</sup> had purchased stone chips and sand, valued at ₹ 29.98 crore from unregistered dealers between April 2010 and 31 March 2013 and brought the same to another local area for utilisation in various works related to works contracts. However, the dealer did not pay entry tax of ₹ 29.98 lakh at the rate of one *per cent* on the said purchase turnover while filing returns. The Assessing Authority (AA), while finalising the assessment, also did not levy any entry tax on the minor minerals treating the same as non-scheduled goods. This resulted in non-levy of entry tax of ₹ 29.98 lakh. Since the AA had failed to levy tax during audit assessment, penalty of ₹ 59.96 lakh, being equal to twice the tax leviable as per the provisions of the Act was also leviable.

Government stated (October 2016) that the AA reassessed (June 2016) the case and levied tax of ₹ 29.98 lakh, but did not impose any penalty as there was no suppression of purchase and due to want of clarity of the entry in the Schedule, the dealer had not paid entry tax on the aforesaid goods.

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<sup>42</sup> ‘*Morrum*’ is a minor mineral used in construction of roads.

<sup>43</sup> M/s GVR Infra Projects Ltd., TIN 21516600180.



# **Chapter III**

## **State Excise**





## CHAPTER III

### STATE EXCISE

#### 3.1 Tax Administration

The Principal Secretary, Excise Department is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided into three Divisions<sup>1</sup> namely Central Division, Northern Division and Southern Division which are headed by Deputy Commissioners of Excise. Besides, 69 Inspectors of Excise, 211 Sub-inspectors and 137 Assistant Sub-inspectors of Excise under the control of 31 Superintendents of Excise are deployed in respective districts to oversee and regulate levy / collection of excise duties and allied levies.

#### 3.2 Internal Audit

Internal Audit System in Excise Department is functioning since June 2010 consequent upon introduction of Internal Audit Wing (IAW) in accordance with the decision of Government for regular internal audit check of field offices as well as entire organisation, to ensure correct assessment, prompt collection of excise revenue and timely deposit of revenue to Government Account. During 2015-16, out of 14 units planned for audit, the IAW covered 8 units. The shortfall was attributed by the Department to shortage of manpower. Audit noticed that 401 paragraphs of Internal Audit Reports having money value of ₹ 101.68 crore issued during 2011-12 to 2015-16 were pending for disposal as on 31 March 2016.

#### 3.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2015-16, test check of the records of 16 units relating to State Excise Duty (SED), licence fee receipts etc., showed non-realisation / short realisation of SED / licence fee / interest / penalty and other irregularities involving ₹ 656.21 crore in 320 cases as indicated in the Table 3.1 below.

**Table 3.1**

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Performance Audit of “Issue of Licences, Permits and Passes by Excise Department”	1	596.04
2.	Non-realisation / short realisation of Government revenue under Government account	67	26.56
3.	Other irregularities	252	33.61
<b>Total</b>		<b>320</b>	<b>656.21</b>

<sup>1</sup> Central Division (Balasore, Bhadrak, Cuttack, Jagatsinghpur, Jajpur, Kendrapara, Khordha, Mayurbhanj, Nayagarh and Puri), Northern Division (Angul, Bargarh, Balangir, Deogarh, Dhenkanal, Jharsuguda, Keonjhar, Sambalpur, Subarnapur and Sundargarh) and Southern Division (Berhampur, Boudh, Gajapati, Ganjam, Kalahandi, Kandhamal, Koraput, Malkangiri, Nabarangpur, Nuapada and Rayagada).

During the course of the year 2015-16, the Department accepted under assessment and other deficiencies of ₹ 24.36 crore in 46 cases pointed out during the year. An amount of ₹ 1.19 crore was realised during 2015-16 in 225 cases pointed out in earlier years.

## **B. EXPENDITURE**

In 2015-16, test check of records showed irregularities in expenditure / cash management involving ₹ 7.62 lakh in 36 cases which fell under the categories as indicated in the Table 3.2 below.

**Table 3.2**

(₹ in lakh)			
<b>Sl. No.</b>	<b>Subject</b>	<b>No. of cases</b>	<b>Amount</b>
1.	Blockage of funds due to delay in completion of work	17	--
2.	Other irregularities	19	7.62
<b>Total</b>		<b>36</b>	<b>7.62</b>

During the year, the Department accepted objections in 35 cases pointed out during 2015-16.

### 3.4 Performance Audit of “Issue of Licences, Permits and Passes by Excise Department”

#### Highlights:

Annual Excise Policy did not provide for payment of differential licence fee in case of excess lifting of foreign liquor and beer. The absence of a suitable provision resulted in the Government being deprived of revenue of ₹ 111.04 crore.

**(Paragraph 3.4.6.1)**

In contravention of the codal provisions, licences for retail excise shops were granted by renewal of licences instead of calling for applications on a fixed consideration and through draw of lottery.

**(Paragraph 3.4.7.1)**

Injudicious decision in cancelling the licences of sanctioned excise shops operating on Government land without giving an option to the licensees for relocation of shops led to loss of Government revenue of ₹ 52.31 crore.

**(Paragraph 3.4.7.5)**

Irregular inclusion of Income Tax component of the retailers in the price of liquor led to extra burden of ₹ 95.29 crore on consumers.

**(Paragraph 3.4.7.9)**

There was potential risk of illegal trading of liquor by showing loss / breakage of 2,57,653 cases of liquor valued at ₹ 32.94 crore during transit from manufacturing units to Odisha State Beverages Corporation depots.

**(Paragraph 3.4.8.1)**

Failure in monitoring supply of liquor against permits led to loss of revenue of ₹ 293.71 crore.

**(Paragraph 3.4.8.3)**

Lack of timely action to dispose of stock in a distillery after expiry of licences led to loss / non-realisation of excise revenue of ₹ 2.37 crore.

**(Paragraph 3.4.9.2)**

Shortage of required manpower and vehicle led to non-inspection of retail shops by the field functionaries thereby affecting the enforcement activities.

**(Paragraphs 3.4.10.1 and 3.4.10.2)**

### **3.4.1 Introduction**

The Excise Department was set up as an independent department with effect from 1 December 1999 after being carved out of the erstwhile Revenue and Excise Department. The Department is entrusted with the responsibility of regulating production, storage, transportation and sale of intoxicants along with levy and collection of State Excise Duty (SED) and applicable fees in the State. The wholesale trading of Foreign Liquor (FL) and Country Spirit (CS) is entirely controlled by the Odisha State Beverages Corporation (OSBC) Limited, a fully owned Government company. OSBC obtains FL and CS from the manufacturers on payment of SED in advance, stores the same in the licensed depots and supplies them to the retailers for sale to consumers from licensed outlets. The objective of the Excise Department is to regulate consumption of intoxicants, enhance revenue by way of levying duty and fees and prohibit illegal production and sale of intoxicants in the State. To achieve these objectives, Government of Odisha (GoO) formulates Annual Excise Policies (AEPs) for each financial year and issues licences, permits and passes for manufacturing, storage, sale, export and import of intoxicants in accordance with the provisions of Excise Rules, policies and regulations. Four types of liquors like India Made Foreign Liquor (IMFL), Foreign Made Foreign Liquor (FMFL), Country Spirit (CS) and Out Still (OS) liquor<sup>2</sup> are sold for consumption in the State.

There were 2 distilleries, 14 bottling units, 5 breweries, 966 Foreign Liquor (FL) 'Off'<sup>3</sup> shops, 586 FL 'On'<sup>4</sup> shops, 170 CS shops and 503 OS liquor shops running in the State during 2015-16. CS shops were prevalent in nine<sup>5</sup> districts and OS liquor shops were functioning in 20 districts<sup>6</sup> of the State. OS liquor shops in Kandhamal district had not been renewed since 2012-13.

### **3.4.2 Organisational Set-up**

The administration of the excise laws and policy decisions thereon rest with the Excise Department headed by the Principal Secretary. The Excise Commissioner (EC), Odisha implements the policies with the assistance of three Excise Deputy Commissioners (EDC), 31 Superintendents of Excise (SEs) and other field functionaries such as Deputy Superintendents of Excise (DSEs), Inspectors of Excise (IEs), Sub-Inspectors of Excise (SIEs), Assistant Sub-Inspectors of Excise (ASIEs) and Excise Constables. The Collector of the district is the head of the district excise administration. The Superintendent of Excise (also known as the District Excise Officer) carries out all the excise functions on behalf of the Collector. Organisational chart of the Department is as follows.

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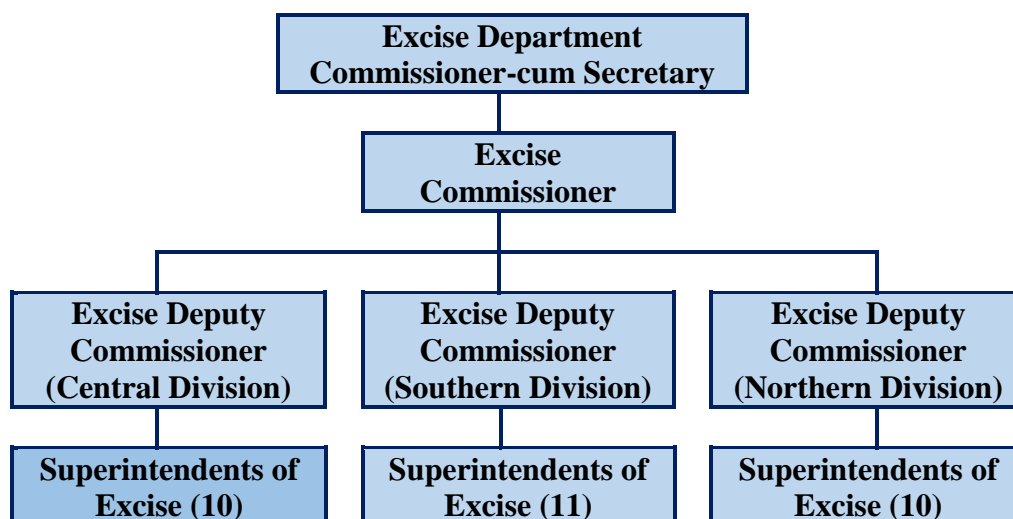
<sup>2</sup> All fermented liquors made from mohua, rice, millet or other grains according to indigenous processes.

<sup>3</sup> Sale of foreign liquor for consumption off the vendor's premises.

<sup>4</sup> Sale of foreign liquor for consumption on the vendor's premises.

<sup>5</sup> Balasore, Bhadrak, Cuttack, Jagatsinghpur, Jajpur, Kendrapara, Khordha, Nayagarh and Puri.

<sup>6</sup> Angul, Bargarh, Balangir, Boudh, Dhenkanal, Deogarh, Gajapati, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nuapada, Rayagada, Sambalpur, Sonepur and Sundargarh.



### 3.4.3 Audit Objectives

The objectives of the Performance Audit (PA) were to assess whether:

- the licences were issued as per State Excise Laws and the process of issue of licences was done in a fair, transparent and non-arbitrary manner;
- permits or passes to control illegal transportation of intoxicants as well as consumption of illicit and spurious liquors were issued as per Act/ Rules;
- the system of levy and collection of State Excise Duty was robust and implemented as per Rules; and
- revenue leakage and excise crimes were prevented by the Department through implementation of the controls prescribed in the Act/ Rules.

### 3.4.4 Scope of Audit and Methodology

The Performance Audit was conducted during April to July 2016 through test check of records relating to issue of licences, passes and permits for the period from 2011-12 to 2015-16 in eight District Excise Offices<sup>7</sup> (DEOs) and three OSBC depots<sup>8</sup> selected on the basis of stratified random sampling method. Audit also test checked the records of the Excise Department, Excise Commissionerate and OSBC Corporate office. Joint physical inspections of FL ‘Off’ shops, FL ‘On’ shops and OS liquor shops were also conducted to assess whether the restrictions imposed and instructions issued under relevant rules were observed in the retail sale premises.

Before commencement of the PA, an Entry Conference was held with the Principal Secretary of the Department on 5 April 2016 in which the audit objectives, criteria and methodology were discussed. The audit findings were also discussed in the Exit Conference held on 29 November 2016 and replies of the Government have been suitably incorporated in the report.

<sup>7</sup> Bargarh, Berhampur, Balangir, Cuttack, Dhenkanal, Khordha, Sambalpur and Sundargarh.

<sup>8</sup> OSBC depots: Balasore, Cuttack at Nirgundi and Khordha.

Audit acknowledges the co-operation of the Department in providing necessary information and records to audit for furnishing compliance to the audit observations.

### **3.4.5 Audit Criteria**

Audit criteria were sourced from the following Acts, Rules and Policies:

- Bihar and Odisha Excise Act, 1915;
- Odisha Excise Rules, 1965;
- Board's Excise Rules, 1965;
- Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989;
- Odisha Excise (Mohua Flower) Rules, 1976;
- Annual Excise Policies, Circulars / Notifications and instruction issued by Government of Odisha in Excise Department, Board of Revenue and Excise Commissioner; and
- Liquor Sourcing Policy issued by OSBC.

### **Audit Findings**

#### **3.4.6 System Deficiencies**

##### ***3.4.6.1 Absence of provision for realisation of differential licence fee in case of excess lifting of FL and beer***

As per Section 20 of the Bihar and Odisha Excise (BOE) Act, 1915 read with Sl. No. 11 of the 'Instructions framed by the Board of Revenue, Odisha', vend licence fee (consideration money) is levied on retail excise shops in consideration of the privilege of selling, for a certain period, intoxicants, opium and other dangerous drugs either in wholesale or retail. The fees may be either fixed or settled by auction and in case of FL, a gallonage fee according to sales is prescribed in addition to the nominal fee fixed. However, this gallonage fee has not been prescribed in the AEP.

As per the Price Fixation Policy, the maximum retail price (MRP) included, among other duties and taxes, the retailer's margin of 15 to 25 *per cent* of MRP in case of FL based on slabs and 25 *per cent* on all categories of beer. As per the principle adopted by GoO for determination of MRP, the licence fee payable by the retailer is included in the MRP as a component and collected from consumers by the retailer at the time of sale of FL and beer. Since the licence fee payable by the retailer was fixed on the basis of minimum guaranteed quantity (MGQ), lifting of FL and beer in excess of the MGQ and sale thereof to consumers warranted realisation of the differential licence fee from the retailers. Audit, however, observed that no provisions had been made in the AEPs for collection of differential licence fee if the licensee lifted FL and beer in excess of the MGQ fixed.

During the test check of records relating to lifting of FL and beer in seven DEOs<sup>9</sup>, Audit observed that 1,075 'Off' / 'On' shops had lifted 1.07 crore

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<sup>9</sup> Berhampur, Balangir, Cuttack, Dhenkanal, Khordha, Sambalpur and Sundargarh.

LPL<sup>10</sup> of FL and 2.79 crore BL<sup>11</sup> of beer in excess of the MGQ fixed during 2011-12 to 2015-16. It was observed that 600 licensees had lifted beer and 270 licensees had lifted FL more than twice the MGQ fixed, while the highest rate of such excess lifting in the case of beer was 5,418 *per cent* and that in the case of FL was 2,217 *per cent*. However, due to absence of any provision in the AEP for realisation of differential licence fee from licensees in the cases of lifting of FL and beer in excess of MGQ, the licensees did not pay the same though they had collected the licence fee from the consumers. This led to escapement of licence fee of ₹ 111.04 crore.

In reply, the Government assured (November 2016) to re-examine the matter.

However, considering the huge loss of excise revenue, Government may take early action.

#### **3.4.6.2 Absence of tracking methodology to track illicit manufacturing, supply and sale of illicit liquors in the State**

The GoO had constituted (April 2000) a Task Force for recommending measures for increasing excise revenue and formulating an Excise Policy. One of the recommendations of the Task Force was that duty paid liquor bottles should have distinct excise adhesive labels (EAL) affixed on them along with a hologram in order to distinguish them from non-duty paid bottles. Accordingly, EAL was prescribed in the AEP 2001-02 to be effective from 1 April 2001.

Audit observed in the three test checked OSBC Depots<sup>12</sup> that the delivery challan-cum-invoice forms issued by depots to retailers did not have a column for entering batch numbers and, as a result, the batch numbers of liquor sold by the retailers were not verifiable. Further, the Department had not adopted a strong tracking methodology by enforcing barcode system as adopted in the National Capital Territory (NCT) of Delhi to distinguish duty paid liquor from non-duty paid liquor. In the absence of any mechanism to track manufacturing, supply and sale of liquor, the possibility of sale of illicit liquor in the State cannot be ruled out.

While accepting the audit observation, Government stated (November 2016) that steps would be taken to introduce a strong tracking methodology by enforcing barcode system.

#### **3.4.6.3 Non-implementation of the provisions of Odisha Excise Act, 2008 due to delay in framing rules**

The excise activities of the State are being regulated under the provisions of the Bihar and Odisha Excise Act, 1915. GoO had enacted a separate Act namely, the Odisha Excise Act in the year 2008 and the same got the assent of Hon'ble President of India in February 2013. The provisions of the Act, however, have not yet come into force due to non-framing of rules for implementation by the State Government. During examination of

<sup>10</sup> LPL: London Proof Litre

<sup>11</sup> BL: Bulk Litre

<sup>12</sup> Balasore, Cuttack at Nirgundi and Khordha.



correspondence files relating to framing of rules under the Act, Audit observed that the Committee constituted (May 2011) for framing the Draft Excise Rules (DER) had submitted the DER in October 2013. Consequently, implementation of the provisions of the Odisha Excise Act, 2008 has been delayed despite the Act having been notified in March 2013.

While accepting the fact, Government stated (November 2016) that steps were being taken to implement the Act and Rules within a month.

## **Compliance Deficiencies**

### **3.4.7 Issue of Licences**

#### **3.4.7.1 Irregular settlement of retail excise shops on renewal basis**

As per Section 22 of Bihar and Odisha Excise (BOE) Act, 1915, the State Government may grant to any person, on such conditions and for such period as it may think fit, the exclusive privilege (EP) of manufacturing, wholesale supplying, wholesale or retail selling of any country liquor or intoxicating drug within any specified area. Further, Section 29 provides that in consideration of the EP granted under Section 22, the State Government may accept payment of a sum determined (a) by auction or by calling tenders or otherwise as the State Government may, in the interest of excise revenue, direct, and (b) by such authority and subject to such control as may be specified in such order. In exercise of the powers conferred under Section 29 (2) of the BOE Act, the GoO, in their latest orders<sup>13</sup> issued in April 2005, prescribed the procedure for settlement of FL 'Off' shops and CS shops by inviting applications on fixed monthly consideration money and by draw of lottery.

During scrutiny of licence issue registers and connected records in the test checked units, Audit observed that despite the above provisions for settlement of FL 'Off' shops and CS shops through inviting applications on fixed monthly consideration money and by draw of lottery, the Department, from the year 2005-06 onwards, has been providing a clause in the AEPs for settlement of these shops by renewal of the existing licences through increasing the consideration money by a certain percentage as prescribed therein. Following this, all the retail FL 'Off' shops and CS shops were being settled every year through the renewal process of increasing the consideration money by 10 to 20 *per cent* from 2005-06 instead of inviting applications from the intending persons. Thus, these shops were being granted licences in a non-transparent manner and in contravention of the provisions in the BOE Act. Audit observed that 415 licensees, who were granted licences during the period between April 1999 and March 2012 still continued to hold such licences as of March 2016. The DEO-wise details are given in **Appendix-3.4.1**.

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<sup>13</sup> Excise Department Order No. 2914, dated 28 April 2005 for FL 'Off' shops and order No. 2920, dated 28 April 2005 for CS shops.

While accepting the fact, Government stated (November 2016) that the e-auction system would be implemented very soon and after implementation of e-auction, the renewal process would be stopped.

#### **3.4.7.2 Irregular issue and renewal of licences without requisite documents**

As per Rule 6-A (3) of Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, no licensee shall lift less than the specified minimum guaranteed quantity (MGQ) of liquor in any month and in the event of failure to lift the MGQ, the differential SED on short lifted MGQ shall be recovered from the bank guarantee obtained from him before issuing the licence. Statutory rules as well as orders<sup>14</sup> relating to settlement of FL 'Off' shops, 'On' shops and CS shops issued by GoO from time to time provide for submission of vital documents such as (i) Solvency Certificate, (ii) Sales Tax Clearance Certificate, (iii) Income Tax clearance certificate, (iv) copy of Permanent Account Number Card issued by Income Tax Department, (v) No Dues Certificate from Excise Authority, (vi) Non-criminal affidavit duly executed before the Executing Magistrate, (vii) Bank Guarantee, (viii) Lease/Ownership of Land agreement duly registered, (ix) copy of Identity card, (x) Approved building plan and lease agreement (for 'On' shops) and (xi) Food licence (for 'On' shops) before applying for issue / renewal of licences by the applicants.

During scrutiny of 1,497 applications for issue of licences and supporting documents made available for the period from 2011-12 to 2015-16 by the test-checked units, Audit observed that in these cases, the DEOs did not ensure submission of the above documents before issue / renewal of licences. The DEO-wise details of cases in which submission of these documents was not ensured before issue of licences to FL 'Off' shops, 'On' shops and CS shops are given in the **Appendix-3.4.2**. It was observed that while bank guarantee, a vital document for realisation of differential SED in case of short lifting of MGQ, was not obtained from the licensees in 1,121 cases, solvency certificates were not obtained in 262 cases. Similarly, in respect of 119 out of total 336 'On' shops, food licences, a vital document to ensure quality of foods provided by those shops, were not obtained from the licensees before issue of licences. Thus, the DEOs issued licences in violation of the statutory provisions / orders of GoO.

The Government stated (November 2016) that the required information was being collected from the concerned District Excise Offices and the same would be furnished after collection.

#### **3.4.7.3 Inconsistent fixation of licence fee for manufacturing units in the Annual Excise Policies**

As per Section 29 (1) of BOE Act, 1915, instead of or in addition to any duty leviable under the Act, the State Government may accept payment of a sum in

<sup>14</sup> Rule 45 of Odisha Excise Rules, 1965, Notification No.2914/Ex. Dated 28.04.2005 and Section 22 of BOE Act, 1915 read with Rule 31 of OER, 1965.

consideration of the grant of any EP under Section 22. The GoO formulated AEPs for the years 2011-12 to 2015-16 fixing annual licence fee for realisation from FL, wine and CS producing, compounding and blending units based on their production capacity. The slab-wise details of licence fee fixed for breweries, distilleries and bottling units are given below:

### 1. Annual Licence Fee fixed for Breweries

Production capacity (slab range in BL <sup>15</sup> )	Annual licence fee fixed in AEPs							Production Capacity slab range modified in 2015-16 (In BL)	Annual licence fee fixed in AEP	
	2011-12	2012-13		2013-14		2014-15			2015-16	
	Amount (₹ in lakh)	Amount (₹ in lakh)	Percentage of increase	Amount (₹ in lakh)	Percentage of increase	Amount (₹ in lakh)	Percentage of increase		Amount (₹ in lakh)	Percentage of increase
Up to 12000000	40.00	50.00	25	60.00	20	72.00	20	Up to 12000000	80.00	11
12000001 to 18000000	60.00	70.00	17	80.00	14	96.00	20	12000001 to 18000000	110.00	15
18000001 to 40000000	90.00	100.00	11	110.00	10	132.00	20	18000001 to 30000000	145.00	10
40000001 and above		120.00		130.00	8	156.00	20	30000001 to 50000000	175.00	12
								50000001 to 80000000	200.00	28
								80000001 and above	220.00	41

### 2. Licence Fee fixed for Distilleries and Bottling Units

Production capacity slab range (In LPL <sup>16</sup> )	Annual licence fee fixed in AEPs							Production Capacity slab range modified in 2015-16 (In LPL)	Annual licence fee fixed in AEP	
	2011-12	2012-13		2013-14		2014-15			2015-16	
	Amount (₹ in lakh)	Amount (₹ in lakh)	Percentage of increase	Amount (₹ in lakh)	Percentage of increase	Amount (₹ in lakh)	Percentage of increase		Amount (₹ in lakh)	Percentage of increase
Up to 1000000	11.00	13.20	20	15.00	14	18.00	20	Up to 1000000	22.00	22
1000001 to 3000000	26.00	31.20	20	33.00	6	40.00	21	1000001 to 3000000	42.00	5
3000001 to 6000000	35.00	42.00	20	45.00	7	54.00	20	3000001 to 6000000	62.00	15
6000001 to 10000000	45.00	54.00	20	57.00	6	68.00	19	6000001 to 9000000	82.00	21
10000001 and above	60.00	72.00	20	75.00	4	90.00	20	9000001 to 12000000	92.00	2
							New slab	12000001 and above	100.00	11

Though the rate of licence fee fixed for the years from 2011-12 to 2015-16 was increased, no uniformity in the growth was maintained for all categories of breweries, distilleries and bottling units of FL except for 2012-13 in case of distilleries and bottling units and 2014 -15 in case of breweries. However, the basis on which the percentage of increase in licence fee was decided in the AEPs, was not on record.

However, as per the AEP 2016-17 for issue and renewal of licences before 31 March 2016, the licence fee for distilleries, bottling units and breweries was fixed on the basis of supplies made to wholesale depots between January and December 2015 as shown below.

#### Rates of Licence Fee as per AEP 2016-17

Supply to Wholesale Depots	Distilleries and Bottling Units	Breweries
One crore LPL/BL or above	₹ 0.50 per LPL	₹ 1 per BL
Less than One crore LPL/BL	₹ 1.50 per LPL	₹ 2.50 per BL

However, the distilleries, bottling units and breweries who failed to utilise less than 10 *per cent* of their installed capacity between January and December 2015, were required to pay the licence fee at the same rate as applicable for 2015-16.

<sup>15</sup> Bulk Litre.

<sup>16</sup> London Proof Litre.

During scrutiny of Licence Issue Registers and files in the eight test-checked DEOs and information furnished by two other DEOs<sup>17</sup> for the period 2011-16, Audit observed that due to fixation of licence fee at the above revised rate in the AEP 2016-17, the manufacturing units supplying more quantity of FL and beer were given advantage of paying licence fee at lower rate whereas the units supplying less quantity were compelled to pay at a higher rate. Audit further observed that 7<sup>18</sup> out of 11 operational manufacturing units (three breweries, one distillery and seven bottling plants) under the eight test checked DEOs, paid (March 2016) a lesser amount of ₹ 1.96 crore towards licence fee for 2016-17 in comparison to 2015-16. The decrease of licence fee for 2016-17 as compared to 2015-16 was 38.53 *per cent*. Thus, improper fixation of licence fee led to loss of Government revenue amounting to ₹ 1.96 crore. The DEO-wise details are given in the **Appendix-3.4.3**.

While accepting the audit observation, the Government stated (November 2016) that a proposal would be submitted to Finance Department for inclusion of another intermediary slab.

#### ***3.4.7.4 Non-realisation of licence fee despite storage of intoxicants without licence***

As per Section 16 of the BOE Act, 1915 read with Rule 33(1)(c) of Board's Excise Rules (BER), 1965, no person shall, except under the authority and subject to the terms and conditions of a licence granted by the Collector, deposit or keep any intoxicant in any warehouse or other place of storage established, authorised or continued under the Act. In the AEPs for the years from 2001-02 to 2013-14, GoO prescribed annual licence fee for storage of intoxicants from manufacturing units.

A distillery<sup>19</sup> in Dhenkanal was issued licence from 2014-15 for storage of Extra Neutral Alcohol (ENA) and Rectified Spirit (RS) on its premises. Although licence was granted to the above distillery prior to 2014-15 for manufacturing ENA and RS, neither had the distillery applied for licence for storing the same on its premises nor had SE, Dhenkanal issued licence and realised licence fee during these years. Thus, the distillery stored spirit on the premises after distillation without licence. This resulted in loss of Government revenue of ₹ 62 lakh towards storage licence fee for the period from 2001-02 to 2013-14 (fee structure for the years from 1995-96 to 2000-01 was not available).

While accepting the audit observation, the Government agreed (November 2016) to recover total licence fee from the distiller.

#### ***3.4.7.5 Injudicious decision in cancelling the licence of sanctioned excise shops operating on Government land led to loss of Government revenue***

The EC, Odisha had issued (August 2013) instructions to close down the retail excise shops located on Government land on the information provided by the

<sup>17</sup> Jagatsinghpur and Puri.

<sup>18</sup> One brewery, one distillery and five bottling units.

<sup>19</sup> M/s Sakthi Distillery, Dhenkanal.

Revenue and Disaster Management Department. Subsequently, as per the orders of the Hon'ble High Court of Odisha to close down all excise shops functioning on Government land, GoO in Excise Department issued (January 2014) instructions<sup>20</sup> to cancel the licences of such shops located on Government land without giving an option for relocation.

During scrutiny of records relating to settlement of retail excise shops and information collected from the EC, Odisha, Audit observed that 266 excise shops<sup>21</sup> of the State located on Government land were closed down and their licences were cancelled in pursuance of the above instructions without giving an option for relocation. These included 66 excise shops<sup>22</sup> in six<sup>23</sup> out of the eight test checked units. The licences were cancelled between August 2013 and March 2014. However, after a lapse of more than 18 months, Government issued further instructions on 5 October 2015 to allow those EP holders to relocate their excise shops to unobjectionable private land in the EP area within a period of three months. Accordingly, 40 excise shops under the above test checked circles were relocated to unobjectionable private land and the remaining 26 shops had not been relocated as of March 2016. Thus, Government's decision not to give any option for relocation, at the time of issue of the initial instructions in January 2014 led to the above 66 excise shops remaining closed from the date of cancellation of licences till the date of relocation (March 2016). As a result, Government sustained a loss of revenue of ₹ 52.31 crore. The details are given in **Appendix-3.4.4**.

In reply, Commissioner-cum-Secretary stated (November 2016) that the decision to cancel licence of shops functioning on Government land was that of the Government and hence should not be treated as loss.

However, failure to allow relocation of the shops at the time of initial instruction had resulted in loss of excise revenue.

#### ***3.4.7.6 Incorrect decision leading to closure of sanctioned retail shops on private land and loss of revenue***

As per Section 38 (2) of BOE Act, 1915 read with Rule 31 of OER, 1965, the licences for the wholesale or retail vend of intoxicants may be granted for one year from 1st April to 31st March of the following year.

During test check of Licence Fee Registers and related files, Audit observed that based on the instructions<sup>24</sup> issued (January 2014) by GoO, the DEOs of Dhenkanal and Khordha had cancelled the licences of four FL 'Off' shops<sup>25</sup> of three EP holders during February and March 2014 as these were functioning on Government land. Despite cancellation of licences, the DEOs raised demand to pay SED in respect of the said 'Off' shops. Since the shops were not functioning due to cancellation of licence, the EP holders did not pay the SED. Due to non-payment of SED for the above shops, the DEOs did not

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<sup>20</sup> Letter No. 284/ Ex, dated 18 January 2014.

<sup>21</sup> 'Off' shops: 91, 'On' shops: 9, CS shops: 40, OS Main shops: 41 and OS branch shops: 85.

<sup>22</sup> 'Off' shops: 23, 'On' shops: 1, CS shops: 15 and OS shops: 27.

<sup>23</sup> Balangir, Cuttack, Dhenkanal, Khordha, Sambalpur and Sundargarh.

<sup>24</sup> Letter No. 284/ Ex, dated 18 January 2014.

<sup>25</sup> Birasal, Nuahat and Bhuban 'Off' shops under DEO, Dhenkanal and Tirumala 'Off' shop under DEO, Khordha.

renew the licences of eight other 'Off' shops of the same EP holders<sup>26</sup> for the year 2014-15 although the said 'Off' shops were located on private land and no arrear was due against them. Being aggrieved, the EP holders filed writ petitions before the Hon'ble High Court of Odisha which issued (June and December 2014) orders to renew the licences of the said 'Off' shops located on private land for the year 2014-15 without insisting upon the purported dues. Accordingly, the Department renewed the licences of the shops between September 2014 and January 2015 for the remaining period of the year 2014-15 and realised SED for the said period. Thus, the incorrect decision of the DEOs not to renew the licences of the EP holders for 2014-15 resulted in loss of revenue of ₹ 3.52 crore towards consideration money and SED for the period for which the shops remained closed. The details are given in **Appendix-3.4.5**.

In reply, the Government assured (November 2016) to look into the matter.

#### **3.4.7.7 Non-compliance with Government instructions led to undue favour to licensees**

The EC, Odisha had issued (August 2013) instructions to close down excise shops located on Government land. In pursuance of the above instruction, DEO, Balangir, closed down three OS main shops and one OS branch shop located on Government land and reported (November 2013) the matter to the Revenue Divisional Commissioner (RDC), Northern Division (ND), Sambalpur.

During scrutiny of records related to settlement of FL 'Off' shops, Audit, however, observed that in violation of Government instructions, two FL 'Off' shops<sup>27</sup> of Balangir were still functioning on Government land up to 29 July 2015 and it was only after demolition of the said shops by the Balangir Municipality that the SE cancelled the licences of the shops in August 2015. This indicated that the report submitted (November 2013) by the DEO to the RDC to the effect that only three OS main shops and one OS branch shop existed on Government land in Balangir district was not correct and the above 'Off' shops were allowed to continue their operations illegally on Government land till July 2015.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

#### **3.4.7.8 Irregular grant of licences for retail shops in favour of the owners of brewery and bottling units**

As per Rule 46 (2) of OER, 1965, no licence for retail vend of FL shall be granted to a person holding licence for wholesale vend of FL.

During scrutiny of licence issue registers and files in DEOs, Balangir and Dhenkanal, Audit observed that licences were issued in the name of partners of one brewery<sup>28</sup> and one bottling unit<sup>29</sup> of IMFL. It was also observed that

<sup>26</sup> Manoj Kumar Sinha (3 shops), Pratap Chandra Rout (1 shop) and Binod Chandra Rout (4 shops).

<sup>27</sup> Off' shop No. 2 and 3.

<sup>28</sup> M/s Maikal Breweries Pvt. Ltd., Sarmuhan in Balangir district.

<sup>29</sup> M/s Shakti Maltare and Lemonade (P) Ltd. at Machhia in Dhenkanal district.

licences were issued for 29 retail 'Off' shops and 7 retail OS liquor shops during the period between 2011-12 and 2015-16 to six partners of the above brewery and bottling units. The details are given in **Appendix-3.4.6**. Further, Audit observed that the Sub-Inspector of Excise, Patnagarh under DEO, Balangir had seized (May 2016) 300 cases of beer containing 3,600 bottles (650 ml each) supplied by one of the above units without valid excise transport pass. The issue of licences to the partners of the above brewery and bottling units for retail sale of liquor in addition to manufacturing licence was irregular and fraught with risk of illegal supply of IMFL / beer to the retail shops of partners.

The Government stated (November 2016) that Rules do not restrict issue of licences to the owners of manufacturing units having retail shops.

However, the Rule 46 (2) of OER, 1965 does not provide issue of retail licence to wholesalers of IMFL / Beer. As the manufacturers are otherwise known as wholesalers (before formation of OSBC in 2001), the amendment in the Rules has not been made and licence should not be granted to the manufacturers who are owners of retail shops.

#### ***3.4.7.9 Irregular inclusion of retailer's Income Tax component in the price of liquor inflated the cost of liquor***

The GoO in Excise Department reconstituted (May 2004) a Price Fixation Committee (PFC) consisting of five members under the chairmanship of Principal Secretary, Excise Department and four other members i.e. Special Secretary of Finance Department, Commissioner of Commercial Taxes, Excise Commissioner and Managing Director, OSBC. Basing on the brand-wise offer price of suppliers, landing cost of beverages is decided and adding the margins of wholesaler and retailers as well as duties and taxes thereon, the MRP is determined by the PFC.

During scrutiny of records related to price fixation and instructions issued by the GoO from time to time, Audit observed that during the period 2011-12 to 2013-14, the PFC irregularly added the retailer's income tax component in the MRP terming it as tax collected at source (TCS). Accordingly, OSBC collected ₹ 77.79 crore towards TCS from retailers on sale of 5.64 crore cases of beer and IMFL and deposited it with Income Tax authorities. Audit observed that TCS being a direct tax under the provisions of Income Tax Act, 1961 is payable by retailers to the Income Tax Department. Thus, due to inclusion of TCS in the MRP, retailers' margin was inflated by ₹ 17.50 crore.

The Government stated (November 2016) that when inclusion of TCS (income tax in the MRP) was pointed out earlier by Audit, it was immediately excluded during August 2013 and notices were issued to the retailers for refund of the amount. Being aggrieved, the retailers obtained a stay from the Hon'ble High Court of Odisha.

#### ***3.4.7.10 Fixation of licence fee of FL 'Off' shops vis-à-vis FL 'On' shops***

As per Rule 6-A(1)(b) of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, MGQ of FL (in LPL), beer (in BL) and duty thereon will be fixed by the EC from time to time subject to approval of

Government. Further, as per Rule 6-A (3), no licensee shall lift less than the specified MGQ of FL in a month.

During scrutiny of records relating to fixation of MGQ and lifting thereof with reference to Licence Fee Registers in the eight test checked DEOs as well as scrutiny of policy files in the Department, Audit observed that the monthly licence fee of FL 'Off' shops were determined during 2011-16 by increase of 12 to 20 *per cent* annually. Accordingly, the MGQs of such shops were fixed on the basis of the amount of licence fee as per the ratio prescribed every year in the AEPs as detailed below.

Year	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
<b>1. FL 'Off' Shops</b>						
Percentage of increase in licence fee of 'Off' shops per annum on renewal	12	20	20	20	20	20
<i>MGQ of FL 'Off' shops per licence fee of ₹1000 per month:</i>						
For Urban – (FL in LPL/ beer in BL)	27 / 40	30 / 40	30 / 40	30 / 40	24 / 36	21 / 31
For Rural – (FL in LPL/ beer in BL)	24 / 35	25 / 35	25 / 35	25 / 35	20 / 30	17 / 26

It was observed that due to linkage of MGQ to licence fee instead of the quantity lifted during the previous years, the MGQ of all FL 'Off' shops increased every year. During 2015-16, the MGQ increased by 84 *per cent* of the MGQ of 2011-12.

In contrast, the MGQ of the four categories of FL 'On' shops remained constant during the period from 2011-12 to 2015-16 despite increase in annual licence fee as given below.

Year	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
<b>2. FL 'On' shops – Rate of annual licence fee on renewal basis</b>						
	<i>(₹in lakh)</i>					
Three Star Hotels and above	3.00	4.00	4.00	5.00	6.50	7.00
Hotels with lodging in six major cities*	3.50	5.00	5.00	6.00	7.20	7.50
For other Urban Areas with lodging	3.00	4.00	4.00	5.00	6.00	6.50
Hotels & Restaurants without lodging	4.00	5.00	6.00	7.20	8.50	9.00
<i>MGQ of FL 'On' shops</i>						
Three Star Hotels and above (In LPL of FL/BL of beer)	75/200	75/200	75/200	75/200	75/200	No MGQ is prescribed
Hotels with lodging in six major cities* (In LPL of FL/BL of beer)	100/300	100/300	100/300	100/300	100/300	
For other Urban Areas with lodging (In LPL of FL/BL of beer)	100/300	100/300	100/300	100/300	100/300	
Hotels & Restaurants without lodging (In LPL of FL/BL of beer)	150/400	150/400	150/400	150/400	150/400	

\*Cuttack, Berhampur, Bhubaneswar, Puri, Sambalpur and Rourkela.

Audit observed that the MGQ of 'On' shops was not increased despite increase of annual licence fee. It was observed that due to increase in MGQ based on the amount of licence fee every year, an average of 191 FL 'Off' shops per year were not able to lift their MGQ during 2011-16. The rationale behind the policy of increasing MGQ of 'Off' shops and not increasing the MGQ of 'On' shops was not on record. The number of FL 'Off' shops in the State decreased to 966 in 2015-16 (11.78 *per cent*) from 1,095 in 2010-11. In contrast, the number of 'On' shops increased from 463 in 2010-11 to 586 in 2015-16 (26.58 *per cent*). Fixation of MGQ based on the quantity lifted during



the previous year would have been a more accurate assessment of the lifting capacity of retailers.

The Government stated (November 2016) that as regards MGQ of 'On' shops, the primary objective of 'On' shops were to provide the consumers a safe and exclusive place to drink as otherwise liquor consumption might go out of hand. This would have serious impact on the law and order situation of the State apart from disruption of the overall social fabric. With this objective in mind, no extra burden of MGQ was added to the 'On' shops as the primary goal of Government is to provide place for consumption of liquor.

However, the Government may consider increasing MGQ for 'On' shops to avoid loss of revenue.

### **3.4.8 Issue of Permits and Passes**

#### ***3.4.8.1 Potential risk of illegal trading of liquor by showing loss / breakage during transit from manufacturing units to OSBC depots***

Permits are issued as per the instructions<sup>30</sup> issued (December 2000) by Government. The Act and the Rules regulating manufacturing and sale of FL do not provide for any loss during transit from manufacturing unit to warehouse / depots. Further, clauses 13.1.11 and 13.1.12 of Liquor Sourcing Policy (LSP), 2013-14 of OSBC stipulated that the suppliers would be responsible for any loss caused due to shortage and breakage during transit as well as at the depots.

During analysis of Goods Receipt Notes (GRNs) database for the period from 2011-12 to 2015-16 furnished by OSBC for all depots, Audit observed that in 4,254 consignments, short receipt of 28,976 cases of FL / beer valued at ₹ 4.92 crore was shown by the OSBC depots as transit shortage. Similarly, in respect of 65,533 consignments, the OSBC depots disclosed short receipt of 2,28,677 cases of FL / beer valued at ₹ 28.02 crore as transit breakage. Audit further observed that while in 30 consignments of IMFL, the shortages ranged between 102 and 2,292 cases, the same ranged between 102 and 9,001 cases in 26 consignments of beer. The depots accepted / received these consignments without recording the reasons of transit shortage and / or breakage shown by the transporters at the time of delivery of liquor. Neither the OSBC nor the concerned DEOs took any initiative to ascertain the reasons for such shortage/breakage. Further, though the suppliers were to be held responsible for such shortage / breakage as per the LSP, no action was initiated against them.

Commissioner-cum-Secretary stated (November 2016) that since the liquor was being supplied by the supplier to the depots after payment of SED; there is no question of loss of revenue. The Department, however, agreed to fix a percentage for transit loss.

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<sup>30</sup> Notification No. 7848/ Ex, dated 29 December 2000.

### ***3.4.8.2 Irregular issue of trade-off passes and non-receipt of excise verification certificates***

As per instructions<sup>31</sup> of EC, Odisha dated 28 October 2005, no inter-depot transfer of FL shall be allowed for less than 200 cases and in all inter-depot transfer cases, Excise Verification Certificate (EVC) shall be obtained within seven days from the date of issue of the permit. In case no EVC is received within the stipulated time, full duty, sales tax and other dues shall be realised from the concerned company.

During analysis of the GRN database for the period from 2011-12 to 2015-16 furnished by OSBC, Audit observed that in violation of the above instructions, 2,759 trade-off passes were issued by SE, Khordha for less than 200 cases per pass for inter-depot transfer of FL. The SE, Khordha also could not furnish any evidence in support of receipt of any EVC for the above inter-depot transfers. No steps were also taken by the SE, Khordha to realise the full SED on the above quantity of liquor.

The Government stated (November 2016) that the matter would be examined.

### ***3.4.8.3 Failure in monitoring supply of liquor against permits led to loss of revenue***

As per Section 12 of BOE Act, 1915, no intoxicant exceeding such quantity as the State Government may prescribe by notification, either generally or for any specified local area, shall be imported, exported or transported, except under a pass granted by the Collector. Such passes may be either general for definite periods and particular kinds of intoxicants or special for specified occasions and particular consignments only. Accordingly, the GoO in their Notification dated 29 December 2000, authorised the SE, Khordha exclusively to issue permits in the State. Further, clauses 6.1 and 6.3 of LSP, 2015-16 of OSBC have prescribed that liquor is to be supplied to depots of OSBC only under valid import permits issued by the SE, Khordha. Before import or transport of liquor to OSBC depots, the supplier has to pay the Import Fee and / or SED in advance at the prescribed rates and the same is remitted by OSBC to the SE, Khordha for issue of required permit. The permits are then issued by the SE and handed over to the suppliers through OSBC for supply of liquor within the stipulated time. Supplies, on arrival at the depots, are entered in the Gate Entry Register (GER) recording permit number, time of entry, vehicle number, etc. Thereafter, the BM of the depot verifies currency period of the permit along with other required documents and allows vehicles to be unloaded whereupon GRN is prepared manually as well as through a computerised system.

Analysis of Goods Receipt Note (GRN) database obtained from OSBC and scrutiny of TPs issued by SE, Khordha during 2011-16 showed various irregularities in supply of liquor to OSBC depots against the TPs issued as detailed below.

<sup>31</sup> Letter No. 7687/ Ex, dated 28 October 2005.

- ***Liquor received at OSBC depots in several consignments against individual excise permit***

Scrutiny of transport/import permits issued by SE, Khordha with the GRN database of OSBC showed that in 2,840 cases, liquor was delivered by the suppliers to OSBC depots in several times against that individual permits during 2011-16. In some cases, different supplies were made by various suppliers to different OSBC depots. This resulted in loss of revenue of ₹ 293.71 crore<sup>32</sup>.

- ***Transport permits issued but supplies were not made to OSBC depots***

It was observed that although 2,414 transport / import permits were issued during 2011-16 by SE, Khordha for supply of liquor in 18, 37,934 cases (cost and SED could not be calculated as these permits were not entered in GRN database) to OSBC depots, liquors were however not delivered against the permits. Despite this, neither SE, Khordha nor OSBC adopted any mechanism for cross checking the permits issued with reference to GERs of the depots and the corresponding GRN entries in the database. Cross verification of TPs with GERs and GRNs of depots is essential for ensuring that liquor is sold by retailers after payment of State Value Added Tax. Besides, possibility of sale of liquor outside the purview of OSBC who is the sole agent for wholesale supply of liquor in the State cannot be ruled out.

While accepting inconsistencies in the database, the Government stated (November 2016) that all the supplies made to the OSBC were based on proper transit permits. It was further stated that since the liquor were received at OSBC depots on a permit, it cannot be considered fake.

However, the database maintained by OSBC was not as per the transit permits issued by the SE, Khordha. Further, though many supplies were made by different suppliers to different depots against individual permits, no system was in place to cross verify these permits.

#### ***3.4.8.4 Non-submission of monthly returns of Mohua Flower by OS liquor traders***

As per Rules 13 and 14 of the Odisha Excise (Mohua Flower) Rules, 1976, any firm, person, co-operative society or Government establishment authorised to store or possess or sell *mohua* flower (MF), shall maintain correct and up-to-date account of stock, sale, import, export or transport of MF from day-to-day in Form-V and shall submit monthly returns thereon in Form-VI to the concerned SE on or before 10<sup>th</sup> day of each month succeeding the one to which the return relates. On receipt of the returns, the SE shall submit a consolidated monthly return in the prescribed Form to the EC on or before the 20<sup>th</sup> day of each month.

During scrutiny of MF Storage Permit Registers and Transport Pass Issue Registers for the period from 2011-12 to 2015-16 in three DEOs<sup>33</sup>, Audit observed that 804 storage licences were issued for storage, distillation and sale

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<sup>32</sup> State Excise Duty: ₹ 288.72 crore and Entry Tax: ₹ 4.99 crore.

<sup>33</sup> Bargarh, Berhampur and Sambalpur.

of MF. However, the licensees had not submitted monthly returns to the respective DEOs as per the above Rules. As a result, the DEOs were not able to ascertain the details of transactions as well as utilisation of permits and passes issued during the above period.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

### **3.4.9 Levy and collection of State Excise Duty and Fees**

#### **3.4.9.1 Short realisation of State Excise Duty during 2015-16 due to wrong conversion of MGQ prescribed for beer**

As per Rule 6-A of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, every successful bidder of FL 'Off' shop shall, before obtaining licence, guarantee the lifting of the MGQ of FL as fixed by the EC. In case of failure on the part of the licensee to lift the MGQ, action may be taken to make good the loss of SED, which shall be recovered from the bank guarantee obtained by the Collector. In case of further deficit, the amount will be collected at the end of the year with 10 per cent fine thereon.

During 2015-16, the retailers were unable to lift the monthly MGQ because of non-supply of beer by major beer manufacturing / supplying companies during the month of April and May 2015. GoO, as an interim measure, approved (May 2015) a proposal to give an option to them to lift such quantity of IMFL in lieu of BL so that the SED payable on the short lifted MGQ of beer could be paid by them. As per the AEP 2015-16, SED on beer was ₹ 30 + 40 per cent *ad valorem* of landing cost of BL. As such, taking into consideration the minimum landing cost of ₹ 42.22 during 2015-16, minimum SED payable per BL of beer was ₹ 47.

During test check of MGQ statements, Licence Fee Registers and Charge Office records of four DEOs<sup>34</sup>, Audit observed that licensees of 45 'Off' / 'On' shops could not lift the MGQ of beer during 2015-16. As per the above instructions, the DEOs allowed the licensees to lift IMFL in lieu of short lifted quantity of beer by adopting the conversion formulae. However, while calculating the converted quantity of IMFL in lieu of the short lifted MGQ of beer, the DEOs, instead of taking the minimum SED at ₹ 47 per BL, determined the SED as ₹ 30. This resulted in shortfall in lifting of 1,07,433 LPL of IMFL leading to short realisation of SED of ₹ 2.90 crore. The details are given in the **Appendix-3.4.7**.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

#### **3.4.9.2 Non-adherence to the prescribed provisions after expiry of licences and lack of timely action led to loss of excise revenue**

As per Section 13 (1) (f) of BOE Act, 1915, no person shall use, keep or have in his possession any materials, stills, utensils, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant other than *tari*,

<sup>34</sup> Balangir, Sundargarh, Dhenkanal and Khordha.

except under the authority and subject to the terms and conditions of licence granted in that behalf by the Collector. For contravention of the above provision, the person shall be punishable under Section 47 (a) and (f) of the Act *ibid*. Rule 19 of BER, 1965 provides that on termination of a licence either on account of expiry of the term or on account of cancellation or suspension of the licence, the Commissioner can take over or permit the distiller's successor to take the balance of liquor in the distillery at 20 *per cent* below the contract rate or may allow the distiller to remove all liquor remaining within the distillery on payment of full duty within a period of one month from the date of expiry of the licence and when, in the latter case, the distiller fails to remove the liquor, it shall be liable to forfeiture at the discretion of the Commissioner.

During scrutiny of records relating issue of licence and relevant correspondence files in DEOs, Khordha and Sundargarh, Audit observed that two distilleries<sup>35</sup> and one bottling unit<sup>36</sup> closed operations and did not renew their licences. However, the SEs did not ensure the procedures prescribed in the Act / Rule as discussed below.

- One distillery<sup>37</sup> under DEO, Khordha closed its operation on 4 July 2013 and did not renew licence for 2014-15 onwards. The Inspecting team of DEO, Khordha conducted physical verification on 11 July 2014 i.e. after one year of closure of the distillery and found closing stock of 7,545 BL of HBS<sup>38</sup> of different strengths, 263.25 LPL of Celebration Rum and 8,39,000 holograms inside the distillery, which tallied with the book balance. The SE did not take any action for disposal of the closing stock as per the provisions of the Act within the stipulated period of one month. Further physical verification on 18 May 2016, however, showed shortage of 5,948 BL of HBS and 263.25 LPL of Celebration Rum. Thus, failure of the SE to take timely action for disposal of the closing stock resulted in loss of Government revenue of ₹ 60.21 lakh. The details are given in the **Appendix-3.4.8**. The balance of 1,597 BL of HBS remained undisposed of till date (August 2016).
- Another distillery<sup>39</sup> under the DEO, Sundargarh did not apply for renewal of licence for 2014-15 and onwards and closed its operation. At the time of closing, the unit had 53,528.53 LPL of ENA. The above stock of ENA was required to be removed by the owner on payment of full duty within a period of one month from the date of expiry of the licence. The DEO neither initiated any action as required under Section 47 of the BOE Act for imposition of penalty nor took any steps for disposal of the ENA as required under Rule 19 of BER, 1965. This led to blocking of Government revenue of ₹ 1.48 crore at the rate of ₹ 276 per LPL.
- A bottling unit<sup>40</sup> had renewed licence up to 2012-13 and closed its operation from 2013-14. It was observed that 16,666.515 LPL of FL manufactured prior to March 2011 was lying in the distillery as of May

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<sup>35</sup> M/s Utkal Distilleries Ltd., Khordha and M/s Suidihi Distilleries, Sundargarh.

<sup>36</sup> M/s Pine Casks Bottling (P) Ltd., Khordha.

<sup>37</sup> M/s Utkal Distilleries Ltd., Khordha.

<sup>38</sup> High Bucket Spirit.

<sup>39</sup> M/s Suidihi Distillery, Sundargarh.

<sup>40</sup> M/s Pine Casks Bottling (P) Ltd., Khordha.

2014 without disposal. Since the above stock was past expiry date, the SE issued demand (May 2014) for payment of ₹ 28.33 lakh towards SED to the owner as per the provisions of the Act. Audit observed that neither did the licensee pay the dues nor had the SE initiated any action for disposal of the above stock of FL. Thus, due to non-initiation of any action by the SE, SED of ₹ 28.33 lakh remained unrealised.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

### 3.4.10 Enforcement and Control Mechanism

#### 3.4.10.1 Shortage of required manpower and infrastructure affected enforcement activities

Excise Department is a revenue earning Department of the State, which enforces the State Excise Laws. As mentioned in the activity report, the main objectives of the Department are to (i) control the manufacture, distribution and sale of liquor and prohibit sale of spurious liquor, (ii) mobilise additional resources for the Government and (iii) prevent illicit distillation and clandestine trade in non-duty paid liquor through Excise Intelligence and Enforcement measures.

For implementation and enforcement of various provisions of the Act, the rules and the executive instructions, the Department needed adequate manpower and infrastructure. Audit, however, observed in the test checked DEOs, an acute shortage of manpower and infrastructure to effectively enforce the provisions as discussed below:

- **Manpower**

From the information furnished by EC, Odisha, Audit observed that out of the total sanctioned posts of 1,899 under different cadres, 199 posts had remained vacant as of 31 March 2016. The cadre-wise details of sanctioned strength, men in position and vacancy position are given in the table below.

Sl. No.	Name of the post	Sanctioned Strength	Men in position	Vacant	Percentage of shortage
1	Superintendent of Excise	31	15	16	52
2	Deputy Superintendent	34	32	2	6
3	Inspector of Excise	95	89	6	6
4	Sub-Inspector of Excise	240	216	24	10
5	Asst. Sub-Inspector of Excise	301	263	38	13
6	Excise Constable	1,198	1,085	113	9
<b>Total</b>		<b>1,899</b>	<b>1,744</b>	<b>199</b>	

Thus, while 52 per cent of the sanctioned strength of SE cadre remained vacant, the percentage of vacancy in the posts of SIEs and ASIEs was 10 and 13 respectively. Further, from the information furnished by four<sup>41</sup> out of total eight test checked DEOs, Audit observed that the IEs and SIEs were assigned additional duties even up to a distance of 100 km. As a result, retail FL 'Off' and 'On' shops / OS liquor shops were not inspected regularly and restrictions on production / sale of illicit liquor in the district could not be fully ensured.

<sup>41</sup> Cuttack, Dhenkanal, Khordha and Sundargarh.

The administration of excise laws was affected due to 52 *per cent* vacancies in SE cadre as discussed in para No. 3.4.10.2.

- ***Vehicle Position***

Out of 227 vehicles required for 31 Excise districts and four Excise Intelligence and Enforcement Bureaus, only 62 vehicles were available and there was a shortage of 165 vehicles (73 *per cent*) as of 31 March 2016. The details are given in **Appendix 3.4.9**. Thus, shortage of vehicles in field offices affected the enforcement activities in the State.

The Government accepted (November 2016) the audit observation.

#### ***3.4.10.2 Non-adherence to the provisions and executive instructions for inspection of retail excise shops / distilleries / bottling units***

Rules 119 to 128 of BER, 1965 regulate the working of licensed premises. Further, Rules 46 to 48-A of OER, 1965 provide for restrictions on grant of licence for retail sale of distillery spirit and FL. This apart, the EC in his letter dated 4 December 1998 also issued instructions that the SEs should check all the bottling units, trade-offs and retail shops in their respective districts once in a month while the IEs and SIEs in charge of ranges and charges should check all the retail shops of FL under their jurisdiction at least twice in a month. The EC also prescribed some checks to be carried out in bottling units and retail 'Off' and 'On' shops during such inspections.

Audit observed that no records showing inspections carried out by the SEs, IEs and SIEs to enforce the excise laws were maintained in the test checked DEOs.

During joint physical inspections of retail FL shops under the eight test checked DEOs, it was observed that in 33 retail FL shops, the excise officers had not conducted regular inspections as per the above instructions. It was observed that 'On' shops were located within restricted distance of 500 metres from temples, schools, railway stations and petrol pumps in violation of the provisions. The details are given in the **Appendix-3.4.10**. This indicated laxity in excise enforcement.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

#### ***3.4.10.3 Non-conduct of review meetings regularly by District Level Excise Co-ordination Committee***

As per the instructions issued by the Government in April 2012, a District Level Excise Co-ordination Committee (DLECC) constituted under the chairmanship of the Collector of the district for monitoring excise enforcement works by sharing excise intelligence between the enforcement wings of various departments was to meet once in every quarter or more frequently as may be required. The Committee would advise on matters relating to effective control over intoxicants, medicinal preparations containing alcohol and industrial alcohol.



Audit observed that no records relating to the monitoring of excise enforcement work as well as periodical review meetings held by the DLECC were maintained by the test checked DEOs. Only two review meetings in Dhenkanal and one meeting in Khordha were convened during the period April 2012 to March 2016. In the remaining six DEOs, though the SEs stated to have conducted review meetings regularly, the copies of the minutes of meetings were however not furnished to audit.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

#### 3.4.10.4 Failure in enforcement led to FL 'On' shops running like 'Off' shops

Rule 46 (3) of OER, 1965 envisages that licence for sale of FL for consumption 'off' the vendor's premises shall not be granted to a person holding licence for sale of FL for consumption 'on' the vendor's premises and vice versa. Further, one of the conditions for issue of licences of 'On' shops in Form FL-8 is that all liquor sold in 'On' shops shall be consumed in the vendor's premises and the licensee shall not sell any liquor 'Off' the premises without obtaining a separate licence for such retail 'Off' shop.

During joint physical verification of five FL 'Off' shops, three FL 'On' shops and one OS liquor shop conducted in Dhenkanal, it was observed that although licences were granted to two 'On' restaurant shops<sup>42</sup>, they did not have any restaurant on their premises. These 'On' shop licensees had been selling intoxicants 'off' the shop at MRP rate fixed by the GoO though they had been issued licences for sale of intoxicants 'On' the premises of the restaurant. It was also observed that one<sup>43</sup> of the 'On' shops had lifted 815 to 2,209 per cent beer and 432 to 1,418 per cent IMFL in excess of the minimum guaranteed quantity (MGQ) during 2011-16.



FL being sold 'off' the shop in Trupti Bar and Restaurant, Bhuban



FL being sold 'off' the shop in Haripur 'on' shop, Dhenkanal



Bhuban OS shop

Further, it was observed that the maximum retail price (MRP), batch numbers and dates of manufacturing were not printed on the pouches of OS liquor sold

<sup>42</sup> (1) Haripur 'On' Restaurant shop and (2) Bhadaliaposi 'On' Restaurant shop.

<sup>43</sup> Trupti Bar and Restaurant, Bhuban.



in the above retail shop indicating failure in enforcement of provisions of the Act and the Rules.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

***3.4.10.5 Illegal manufacturing of medicinal preparations containing alcohol not detected due to ineffective enforcement of provisions***

As per Section 47 of the BOE Act, 1915, if any person imports, exports, transports, manufactures, collects, possesses or sells any intoxicants in contravention of the Act or any Rule, notification or order made, issued or given or of any licence or permit granted under the Act, he is liable for punishment. The term 'intoxicant', as defined under Section 2(12-a) of the Act, means any liquor or intoxicating drug and includes Mohua flower and molasses.

During test check of records of the Department relating to action taken on the report of Hon'ble Justice AS Naidu Commission of Inquiry investigating the death of 41 persons consuming contaminated medicinal preparations containing alcohol in Cuttack and Khordha districts during February, 2012, Audit observed that the Commission, in its report on 6 April 2013, had opined that proper enforcement activities could not be carried out by the Excise authorities to detect the firm<sup>44</sup> which was illegally manufacturing medicinal preparations containing alcohol. The Commission, among other things, recommended certain measures such as posting of officer-in charge (OIC) in every medicinal and toilet preparation unit, establishment of excise stations in each police station, posting of one Deputy Superintendent of Excise (DSE) in each sub-division and imparting training to Excise Constables. However, as seen from the action taken report of 5 June 2014, no tangible action had been taken by the Department due to shortage of manpower and required infrastructure. The Department did not furnish the details of further action taken till the date of audit (April 2016). This indicated that the Department had not taken adequate measures for making its enforcement effective and to avoid recurrence of such tragedies.

The Government stated (November 2016) that the reply would be furnished after collection of information from field offices.

**3.4.11 Other points**

***3.4.11.1 Increased maximum retail price due to acceptance of offer price at higher rates affected sale of liquor in the State***

As per Section 90 (2) of BOE Act, 1915, the Board of Revenue (BoR) may make rules for fixing the strength, price or quantity in excess of or below which any intoxicant shall not be supplied or sold. The PFC determines the MRP based on the brand-wise offer price of suppliers, landing cost of liquor, excise duty, margin of wholesaler and retailer and other taxes. As per the

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<sup>44</sup> M/s Eastern India Pharmaceutical Laboratory (EIPL), Bhubaneswar.

Liquor Sourcing Policy, OSBC empanels the registered suppliers of the State as well as other States for procurement of liquor.

During scrutiny of records relating to fixation of price of liquor for the period from 2011-12 to 2015-16, Audit observed that the price offered by the suppliers for different brands of liquor and approved by the PFC through negotiations were comparatively much higher (between 12 and 160 *per cent*) than the price offered by the same suppliers for the neighbouring State of Andhra Pradesh. It was seen that the offer prices of suppliers of some top running brands of liquor approved by PFC for the year 2011-12 were even higher by 18 to 69 *per cent* than the price offered by the same suppliers for the same brands to Andhra Pradesh during the year 2014-15. A comparative statement of the offer price of Andhra Pradesh for the year 2014-15 vis-à-vis the offer price approved by the PFC for the years from 2011-12 to 2015-16 for some top running brands is given in the **Appendix-3.4.11**. Thus, acceptance of offer price at higher rates by the PFC without verifying the rates offered by the same suppliers for the neighbouring State led to increase in MRP of liquor in the State. Besides extending undue benefit to suppliers, it adversely affected the trend of sale of liquor in the State from 2011-12 to 2015-16.

It was observed that the quantity of liquor lifted by OSBC declined by 15 *per cent* from 2011-12 to 2015-16. Similarly, sales also decreased by 16 *per cent* from 2011-12 to 2015-16 due to increase in MRP as compared to the neighbouring State of Andhra Pradesh.

Further, increase in MRP from year to year and consequent decrease in sale of liquor was fraught with the risk of production and sale of illicit liquor in the State as well as illegal trade of liquor from other States to fill up the gap between demand and supply. This would be evident from the volume of illegal intoxicants seized during 2011-16 as given below.

#### Illicit liquor seized during 2011-16

Year	ID liquor (lt.)	OS (lt.)	CS (LPL)	IMFL (LPL)	Beer (BL)	Spirit (lt.)	Gur wash (lt.)	Wash (lt.)
2011-12	2,10,738	1,2552	3,998	7,469	7,633	3,108	3,32,405	18,71,605
2012-13	2,32,436	11,96,400	5,162	6,417	6,464	2,159	1,08,922	22,52,456
2013-14	1,56,829	14,878	7,705	14,904	13,249	1,155	1,38,165	15,98,610
2014-15	1,52,818	20,242	21,537	8,893	12,521	2,2715	86,930	15,11,463
2015-16	2,39,963	35,255	12,696	13,239	16,361	306	2825	15,89,031
<b>Total</b>	<b>9,92,784</b>	<b>12,79,327</b>	<b>51,098</b>	<b>50,922</b>	<b>56,228</b>	<b>29,443</b>	<b>6,69,247</b>	<b>88,23,165</b>

Source: Information furnished by Excise Commissioner

The Government stated (November 2016) that since the offer price submitted by the suppliers included cost of production and transportation, it would be incorrect to compare the price of Odisha with that of Andhra Pradesh as cost differs from place to place (though it is in diminishing trend). However, the Government agreed to look into the matter.

However, due to acceptance of higher rates than Andhra Pradesh, the cost of liquor increased and due to this, the sales also decreased by 15 *per cent* in 2015-16 as compared to 2011-12.

### **3.4.12 Conclusion**

The Performance Audit brought out several deficiencies in issue of licences, permits and passes. While transparency and fairness could not be ensured due to irregular grant of licences for sale of foreign liquor in 'Off' shops and country spirit shops through renewal, licences for retail shops were granted irregularly in favour of owners of breweries and bottling units in violation of the rules. Loss/ breakage during transit of liquor to OSBC depots shown by the manufacturing units remained undetected and carried potential risk of illegal trading. Failure in monitoring supply of liquor against valid permits led to loss of revenue due to supply of liquor through invalid / duplicate / fake permits. Effective enforcement of the provisions of the Act / Rules through periodical inspections of retail shops, distilleries and bottling units was not ensured by the test checked units. There was absence of a tracking methodology by enforcing barcode system to distinguish duty paid liquor from non-duty paid liquor and curb trading of illicit liquor in the State.

The Government agreed (November 2016) with the conclusions drawn in the Performance Audit Report.

### **3.4.13 Recommendations**

Government may consider:

- evolving a mechanism to ensure settlement of foreign liquor 'Off' shops and Country Spirit shops every year by calling for applications on a fixed consideration money and through draw of lottery instead of renewal of the existing licences to ensure transparency in issue of licences;
- devising a system for fixing the minimum guaranteed quantity of liquor to be lifted by retailers of foreign liquor 'Off' shops based on the lifting during the previous year and for realisation of differential licence fee in case of lifting in excess of the minimum guaranteed quantity to ensure increase in revenue;
- evolving a system for cross checking transit permits with Gate Entry Registers and Goods Receipt Notes of OSBC to ensure sale of liquor only through OSBC on payment of State Excise Duty;
- strengthening the enforcement wing of the Department for effective compliance of various provisions of the Act / Rules and executive instructions; and
- adopting a tracking methodology through introduction of barcoding system to prevent sale of illicit liquor in the State.

The Government agreed (November 2016) to the recommendations made in the Performance Audit Report and assured to implement the same.

### 3.5 Other Audit Observations

Audit scrutinised the assessment records relating to State Excise Duty and associated fees in the District Excise Offices and found several cases of non-observance of the provisions of the Acts / Rules / Annual Excise Policies leading to non-realisation / short realisation of excise duty, fees and fines etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions on the part of the Superintendents of Excise are pointed out by Audit each year, but not only do the irregularities persist; they also remain undetected until the next audit is conducted. There is need for the Department to improve the internal control system including strengthening of internal audit to avoid recurrence of such irregularities.

### 3.6 Non-observance of provisions of the Acts /Rules / Annual Excise Policies and instructions of Government

The Bihar and Odisha Excise Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue read with the Excise Manual, Annual Excise Policies and notifications of Government provide for levy and collection of State Excise Duty, fees like utilisation fee, import fee, bottling fee, transportation fee, excise adhesive label fee and charges like establishment cost and extra hour operation charge etc. at the prescribed rates.

The Superintendents of Excise, while finalising the assessments, did not observe rules in some cases as mentioned in the subsequent paragraphs which resulted in non-realisation of State Excise Duty / fees, fines etc.

#### 3.6.1 Non-realisation of State Excise Duty for short lifting of minimum guaranteed quantity of IMFL and Beer by licensees of 'Off' shops

As per the Rule 6-A of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, every successful bidder of foreign liquor 'Off' shops shall before obtaining licences, guarantee the sale of the minimum guaranteed quantity (MGQ) of foreign liquor as fixed by the Excise Commissioner (EC). No licensee shall lift less than the specified MGQ of IMFL<sup>45</sup>/ Beer in any month. The EC may, wherever if he deems it necessary, permit the licensee to lift the short drawn MGQ of any month other than the month of March in any subsequent month or months. However, no unlifted quantity shall be permitted to be lifted beyond the last day of February except where the EC may, for reasons to be recorded in writing, permit the lifting of the unlifted MGQ up to last day of March. In case of failure on the part of the licensee to lift the stock as guaranteed, action may be taken to make good the loss of excise duty (ED) which shall be recovered from the bank guarantee obtained by the Collector. In case of further deficit, the amount will be collected at the end of the year with 10 *per cent* fine on the deficient amount or as arrears of land revenue under the provisions of the Odisha Public Demands Recovery Act, 1962. As

<sup>45</sup> IMFL: India made foreign liquor.

per Annual Excise Policy of 2014-15, the minimum ED was fixed at ₹ 204 per LPL<sup>46</sup> of IMFL and ₹ 30 per bulk litre (BL) of Beer.

During test check of MGQ statements, Licence Fee Register and Charge Office records in the District Excise Office, Cuttack for the year 2014-15, Audit noticed (October 2015) that against the MGQ fixed, licensees of seven<sup>47</sup> foreign liquor 'Off' shops short lifted 47,420.09 LPL of IMFL and 1,54,342.37 BL of Beer during 2014-15. However, it was observed that the Superintendent of Excise had not realised ED of ₹ 1.43 crore on the above short lifted MGQ of IMFL / Beer from the concerned licensees. No bank guarantees were also obtained from them for the year 2014-15 from which the deficient ED could have been adjusted. It was further observed that the above licensees did not renew their licences for the year 2015-16. As a result, there was loss of Government revenue of ₹ 1.43 crore towards ED and ₹ 0.14 crore towards fine.

After Audit pointed this out, the Superintendent of Excise stated (October 2015) that the matter would be verified and demand would be raised accordingly. In August 2016, he replied that the Tahasildars concerned had been requested (June and August 2016) to provide list of immovable properties of the licensees for initiating certificates cases under the OPDR Act.

Audit reported the matter to the EC, Odisha, Cuttack and the Government in April 2016. Their replies are awaited (November 2016).

### **3.6.2 Non-realisation of Utilisation Fee and Fine for failure to lift the minimum guaranteed quantity of molasses**

As per Rule 6-D of the Odisha Excise Exclusive Privilege Rules, 1970, the MGQ for lifting and utilisation of molasses by distilleries for production of spirit shall be fixed on the basis of highest quantity of molasses lifted and utilised in the last three years. The licensee shall lift and utilise the entire MGQ of molasses so fixed by the Collector in the financial year on payment of utilisation fee as determined by the State Government from time to time. On failure to lift and utilise the entire MGQ, the licensee shall be liable to pay utilisation fee for the shortfall together with fine equivalent to 15 per cent of the utilisation fee payable for such shortfall. In the *Annual Excise Policy* for 2014-15, Government fixed the utilisation fee for molasses at ₹ 156 per tonne.

During scrutiny of licence and annual stock taking report of a sugar factory<sup>48</sup> under District Excise Office, Ganjam, Audit observed (November 2015) that distillery licence was issued (April 2014) to the above Unit by the Collector, Ganjam fixing the MGQ of 11,361.6 MT for lifting and utilisation of molasses for the year 2014-15. During the year, though 12,178.184 MT of molasses were available, the Unit did not utilise any quantity in its distillery for production of spirit. It was noticed that although the Unit was required to pay utilisation fee of ₹ 17.72 lakh on the MGQ fixed for 2014-15, neither did the Unit deposit the same nor did the Superintendent of Excise, Ganjam raise the

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<sup>46</sup> LPL: London Proof Litre.

<sup>47</sup> Chandini Chowk FL Off shop, Tinkonia Bagicha FL Off shop, Mangalabag No.1 FL Off shop, Canal Road FL Off shop, Link Road No.4 FL Off shop, Gandarpur FL Off shop and Narendrapur FL Off shop.

<sup>48</sup> M/s Aska Cooperative Sugar Industries Limited, Aska.

demand for realisation of utilisation fee of ₹ 17.72 lakh along with fine of ₹ 2.66 lakh. Thus, Government revenue of ₹ 20.38 lakh remained unrealised.

After Audit pointed this out, the Superintendent of Excise, Ganjam stated (November 2015) that demand would be raised after verification of records.

Audit reported the matter to the EC, Odisha in December 2015 and the Government in April 2016. Their replies are awaited (November 2016).

### 3.6.3 Non-realisation of extra hour operation charges

As per Rule 20 of Board's Excise Rules, 1965, all operations in a distillery, bottling unit and brewery which require the presence of an excise officer shall be stopped on Sundays, other public holidays and specially declared holidays. The production unit may function for the second shift with prior permission of the EC. The unit shall pay to the State Government ₹ 1,000 per each extra hour of operation of its bottling unit / warehouse beyond the scheduled hours.

During scrutiny of records relating to extra hour operation charges in the District Excise Office, Ganjam, Audit observed (November 2015) that during 2014-15 the bottling unit of a sugar factory<sup>49</sup> had remained operational for 1,910 extra hours beyond the scheduled hours of operation. As per the provisions, the licensee had to pay ₹ 19.10 lakh towards extra hour operation charges. However, it was observed that neither did the licensee pay the dues nor did the Superintendent of Excise, Ganjam raise demand for realisation of the same. Thus, Government revenue of ₹ 19.10 lakh towards extra hour operation charges remained unrealised.

After Audit pointed this out, the Superintendent of Excise, Ganjam stated (November 2015) that demand would be raised for extra hour operation charges after scrutiny of records.

Audit reported the matter to the EC, Odisha in December 2015 and the Government in April 2016. Their replies are awaited (November 2016).

### 3.6.4 Loss of Government revenue due to non-settlement of IMFL 'Off' shops

Under Section 38 (2) of Bihar and Odisha Excise (BOE) Act, 1915, read with Rule 31 of Odisha Excise Rules, 1965, licences for the wholesale or retail vend of intoxicants may be granted for one year from 1st April to 31st March following. If, for any reason it becomes so necessary, licences for the wholesale or retail vend of intoxicants may be granted for any shorter period. In exercise of the powers conferred under Section 29(2) of the said Act, the Government of Odisha had issued (April 2005) orders<sup>50</sup> relating to settlement of IMFL 'Off' shops for any period by inviting application on fixed monthly consideration money and draw of lottery. As per clause No. 31 of Annual Excise Policy for the years 2013-14 and 2014-15, in case of any IMFL 'Off' shops remaining unsettled, the Collector may record the reasons for non-

<sup>49</sup> M/s Aska Cooperative Sugar Industries Limited.

<sup>50</sup> Government of Odisha, Excise Department Order No. 2914 dated 28 April 2005.



settlement and furnish proposals to the Government through the Excise Commissioner (EC) for appropriate orders for settlement.

During test check of the Licence Fee Register and other relevant records of the office of the Superintendent of Excise (SE) Gajapati, Audit observed (June 2015) that the Government had permitted (September 2013) extension of time for renewal of licences of all the existing IMFL 'Off' shops up to March 2014. Accordingly, licences of 18 out of the total 19 IMFL 'Off' shops under the SE, Gajapati were renewed. However, the licensee of one IMFL 'Off' shop did not turn up for renewal of licence till November 2013. Although the District Collector, Gajapati had sought (November 2013) clarification from the EC and the Government for settlement of the said IMFL 'Off' shop through lottery process, no clarification either from the EC or from the Department was received till the month of audit (June 2015). As a result, the shop has remained unsettled from November 2013. Because of non-settlement of the shop, there was loss of Government revenue amounting to ₹ 1.79 crore towards Excise Duty and other fees during the period from November 2013 to March 2015.

After Audit pointed this out, the SE stated (June 2015) that clarification was sought for (November 2013) from the EC / Government regarding settlement of the shop and after receipt of the clarification, the shop would be settled.

Audit reported the matter to the EC, Odisha in February 2016 and to the Government in April 2016; replies are awaited (November 2016).

### **3.6.5 Non-realisation of revenue for trading of Molasses**

As per Section 20 of Bihar and Odisha Excise (BOE) Act, 1915, no intoxicant shall be manufactured or produced or stored or sold except under the authority and subject to the terms and conditions of a licence granted by the Collector of the District. Further, as per Section 18 of the Act, no person shall have in his possession any intoxicant which has not been obtained from a licensed vendor. Molasses is an intoxicant as per Section 2(12-a) of the Act *ibid*. Annual Excise Policy (AEP) of Government for the year 2014-15 fixed licence fee for trading of molasses at ₹ 3.60 lakh and application fee at ₹ 24,000.

Audit observed that despite the above provisions in the Act regarding production, storing and sale of intoxicants only under the terms and conditions of a licence, no provision was made in the AEP for the year 2014-15 for issue of licences on realisation of licence fee from sugar industries which also produce, possess and sell molasses in the State. During scrutiny (May 2015) of records of the EC, Odisha and further verification (September 2015) of records of SE, Dhenkanal, Audit observed that during 2014-15, the EC had issued no objection certificates in favour of molasses traders of the State to procure molasses from five sugar industries<sup>51</sup> although those sugar industries did not have licences for trading molasses. Thus, the EC irregularly allowed these sugar industries to store and sell molasses without licence in violation of the provisions of the BOE Act. This also resulted in non-realisation of

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<sup>51</sup> (i) Aska Co-operative Sugar Industries, Ganjam, (ii) Vijayananda Co-operative Sugar Mills Ltd., Balangir, (iii) Bargarh Co-operative Sugar Mills Ltd., Bargarh, (iv) Nayagarh Sugar Complex, Nayagarh and (v) Sakthi Sugars Ltd., Dhenkanal.

Government revenue of ₹ 19.20 lakh towards licence fee (₹ 18 lakh) and application fee (₹ 1.20 lakh).

After Audit pointed this out, the EC stated (May 2016) that based on the observation of Audit, a provision has been made in the AEP, 2015-16 for payment of licence fee of ₹ 1 lakh by sugar factories for trading of molasses. He added that due to absence of such a provision in the AEP, 2014-15, there was no scope for collection of licence fee.

Audit reported the matter to the Government in April 2016; reply is awaited (November 2016).





# **Chapter IV**

## **Stamp Duty and Registration Fee**



## CHAPTER IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax Administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the rules framed thereunder as applicable in Odisha and are administered at the Government level by the Principal Secretary, Revenue & Disaster Management (R&DM) Department. The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by one Joint Inspector General (JIG), three Deputy Inspectors General (DIGs), 30 District Registrars and 30 District Sub-Registrars (DSRs) at the district level and 151 Sub-Registrars (SRs) at the unit level.

#### 4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department was created in the year 1969. During 2015-16, the IAW planned 31 units for audit, and covered all the 31 units. Audit noticed that 9,694 paragraphs of Internal Audit Reports having money value of ₹ 3,670.29 crore issued up to March 2016 were pending for disposal as on 31 March 2016.

#### 4.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2015-16, test check of the records of 68 units of the Revenue and Disaster Management Department showed non-levy / short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 3.36 crore in 13,859 cases which fall under the categories given in the Table 4.1 below.

Table 4.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	20	0.45
2.	Non-levy /short levy of stamp duty and registration fee	137	2.83
3.	Other irregularities	13,702	0.08
<b>Total</b>		<b>13,859</b>	<b>3.36</b>

During the year, the Department accepted under assessments and other deficiencies of ₹ 1.39 crore in 10,977 cases which were pointed out during 2015-16. An amount of ₹ 47.38 lakh was realised in 202 cases relating to the years 2003-04 to 2015-16.

**B. EXPENDITURE**

Similarly, test check of records relating to Expenditure Accounts showed irregularities amounting to ₹ 0.73 crore in 147 cases, which fall under the categories given in the Table 4.2 below.

**Table 4.2**

(₹ in crore)

<b>Sl. No</b>	<b>Category</b>	<b>No. of cases</b>	<b>Amount</b>
1.	Cash book and management of cash	67	0
2.	Other Miscellaneous expenditure	80	0.73
<b>Total</b>		<b>147</b>	<b>0.73</b>

During the year, the Department accepted 125 cases involving ₹ 0.73 crore and recovered ₹ 0.17 lakh in one case.

#### 4.4 Audit Observations

Audit scrutinised records relating to assessment and collection of Stamp Duty (SD) and Registration Fee (RF) which revealed short realisation of revenue on sale certificates and cancellation deeds as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit.

#### 4.5 Non-observance of the provisions of the Acts

The Indian Stamp (IS) Act, 1899 and the Registration Act, 1908 prescribe that deeds of sale certificate, cancellation of sale deeds, general power of attorney and conveyance deeds etc. are to be registered on realisation of SD and RF at the prescribed rates on the consideration fully and truly set forth therein keeping in view the benchmark value<sup>1</sup> or the rates prescribed in the Industrial Policy Resolutions of the Government of Odisha. The documents registered with undervaluation of properties are to be impounded for correct valuation and realisation of differential SD and RF.

Non-observance of the provisions of the above Acts by the Assessing Authorities (AAs) in the cases as mentioned in the following paragraphs resulted in undervaluation of documents and short realisation of SD and RF.

##### 4.5.1 Short realisation of Stamp Duty and Registration Fee due to misclassification of instrument of conveyance as cancellation deeds

As per Section 27 of Indian Stamp Act, 1899 (IS Act) (Odisha Amendment), the consideration, if any, the market value of property and all other facts and circumstances affecting chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. As per Article 17 of Schedule I-A of the IS Act as amended by Odisha Act 1 of 2003, in case of an instrument by which any instrument previously executed is cancelled, if attested and not otherwise provided for, SD of ₹ 150 is leviable. Further, as per Section 64 of the Act, if any person who, with intent to defraud the Government, executes any instrument in which all the facts and circumstances are not fully and truly set forth or does any other act to deprive the Government of any duty or penalty under this Act, shall be punishable with fine which may extend to five thousand rupees.

The term “conveyance” as defined under Section 2(10) of the IS Act, includes a conveyance on sale and every instrument by which property, whether movable or immovable is transferred *inter vivos* and which is not otherwise specifically provided for in Schedule I-A of the Act.

During test check of e-registration database and copies of deeds in the offices of two District Sub-Registrars (DSRs) and 17 Sub-Registrars (SRs), Audit

<sup>1</sup> Benchmark Valuation: Under Benchmark Valuation principle, Revenue and Disaster Management Department of Government of Odisha approves the rates of land from time to time in all districts of the State which ought to be taken into consideration while determining the prevailing market rate/price of the land.

noticed (between May and December 2015) that 51 cancellation deeds<sup>2</sup> were registered during the years 2009 to 2014 and SD of ₹ 150 and RF of ₹ 200 in each case were realised. The reason for cancellation as recited in all these deeds, among other things, was that the consideration money was not received by the vendor after execution of the original deeds. Audit scrutinised the original deeds and noticed that the vendors had already received full consideration money at the time of execution of such deeds and rights and interests over the said properties had been transferred to the vendees. As such, if the original vendors intended to cancel the said deeds to reacquire the properties or due to some other reasons, the same should have been reconveyed through execution of conveyance deeds and SD and RF should have been realised at appropriate rates applicable. Thus, failure on the part of the DSRs / SRs to register the above instruments as conveyance instead of cancellation deeds, resulted in short realisation of SD of ₹ 14.95 lakh and RF of ₹ 5.92 lakh. Besides, fine of ₹ 1.45 lakh was imposable.

After Audit pointed out these cases, nine<sup>3</sup> DSRs / SRs stated (between May and December 2015) that notices would be issued for realisation of differential SD and RF. The remaining 10<sup>4</sup> DSRs / SRs stated (between May and December 2015) that the instruments were registered under Article 17 of Schedule I-A of the IS Act which prescribes levy of SD of ₹ 150. SR, Athagarh in addition to the above reply stated (September 2015) that the Registering Authority had exercised inherent power of registering cancellation deeds as per the instruction issued by Board of Revenue in May 2011.

In reply, Government stated (August 2016) that nowhere in the Stamp Act there is any statutory provision to the effect that a deed of cancellation of an earlier registered sale deed is to be treated as conveyance and in the instant cases the Registering Authorities in exercise of their statutory powers have registered the cancellation deeds in compliance with the provisions of the Registration Act and the IS Act.

The reply of Government is not tenable since in the instant cases, the vendors of property had already received full consideration money at the time of execution of the deeds and rights and interests over the said properties had already been transferred to the vendees. As decided by Hon'ble Madras High Court on 11 February 2011 in the case of M/s Latif Estate Line India Ltd. vrs. Mrs. Hadeeja Ammal (W.A No. 592 of 2009), once title to the property is invested in the transferee by the sale of the property, it cannot be divested unto the transferor by execution and registration of a deed of cancellation even with the consent of the parties. The proper course would be to re-convey the property by a deed of conveyance by the transferee in favour of the transferor. As such, if the original vendors intended to reacquire the said properties, the same should have been reconveyed through execution of fresh conveyance deeds instead of cancellation of the original deeds.

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<sup>2</sup> **DSRs:** Angul (4 cases) and Malkangiri (2 cases), **SRs:** Athagarh (6 cases), Berhampur Town (1 case), Bhanjanagar (5 cases), Dharmasala (1 case), Hemagiri (2 cases), Hinjilicut (2 cases), Jaleswar (2 cases), Paikamal (2 cases), Patnagarh (5 cases), Pipili (1 case), Rajgangpur (3 cases), Salepur (3 cases), Sohela (4 cases), Tangi (1 case), Tihidi (3 cases), Titilagarh (3 cases) and Tusura (1 case).

<sup>3</sup> **DSR:** Malkangiri, **SRs:** Bhanjanagar, Hinjilicut, Paikamal, Rajgangpur, Sohela, Tangi, Tihidi and Titilagarh.

<sup>4</sup> **DSR:** Angul, **SRs:** Athagarh, Berhampur Town, Dharmasala, Hemgiri, Jaleswar, Patnagarh, Pipili, Salepur and Tusura.

#### 4.5.2 Short realisation of Stamp Duty and Registration Fee on Sale Certificates

As per Article 18(b) of Schedule I-A of the IS Act, 1899, as amended by Odisha Act 1 of 2003, certificate of sale granted to the purchaser of any property sold by public auction shall be deemed as conveyance and SD shall be charged accordingly on the consideration equal to the amount of purchase money. Instrument as defined under Section 2(14) of the Act, includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded. Sale certificate issued under Section 13 of the SARFAESI<sup>5</sup> Act, 2002 read with Rule 9(6) of Security Interest (Enforcement) Rules, 2002 in favour of auction purchaser, while securing immovable property from the borrower, is therefore an instrument since possession of the property is handed over to the purchaser and right of the property is recorded in the sale certificate and endorsement as “registered” is recorded by the Registering Authority (RA) under Section 60 of the Registration Act. Registration of documents enlisted under sub-section (1) of Section 17 of the Registration Act, 1908 is compulsory. However, according to sub-section (2) (xii) of the said Section, registration of sale certificate granted by a civil or revenue officer to the purchaser of any property sold by public auction is not compulsory.

During analysis of e-Registration database and test check of records relating to sale certificates in the offices of three DSRs<sup>6</sup> and two SRs<sup>7</sup>, Audit noticed (between June 2014 and November 2015) that nine sale certificates in respect of land auctioned for ₹ 1.86 crore were endorsed by the DSRs / SRs as “registered” between December 2010 and September 2014. On scrutiny of the sale certificates, it was seen that the said certificates were issued by authorised officers of secured creditor banks under the provisions of SARFAESI Act, 2002. Since the authorised officers of the banks were not civil or revenue officers, registration of such sale certificates was mandatory under Section 17(1) of the Registration Act. It was, however, observed that the DSRs / SRs did not insist on mandatory registration of these sale certificates on payment of SD and RF applicable to conveyance deeds. Against SD of ₹ 9.30 lakh realisable at the rate of five *per cent* and RF of ₹ 3.72 lakh realisable at the rate of two *per cent* on all the nine documents, the DSRs / SRs realised SD of ₹ 0.17 lakh and RF of ₹ 0.37 lakh only. This resulted in short realisation of SD of ₹ 9.13 lakh and RF of ₹ 3.35 lakh.

After Audit reported (May 2016), Government stated (September 2016) that an amount of ₹ 4.07 lakh had been realised towards SD and RF in two cases by SR, Basta and in the remaining cases, notices have been issued to the parties concerned for realisation of deficit SD and RF.

<sup>5</sup> The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

<sup>6</sup> DSRs: Balasore, Bhadrak and Puri.

<sup>7</sup> SRs: Basta and Simulia.





# **Chapter V**

## **Motor Vehicle Tax**



## CHAPTER V

### MOTOR VEHICLE TAX

#### 5.1 Tax Administration

The receipts from Motor Vehicle Tax are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), Odisha under the overall supervision of the Commissioner-cum-Secretary, Commerce and Transport (Transport) Department administers the above Acts and Rules made thereunder. The TC is assisted by Joint Commissioners and Deputy Commissioners at the headquarters level and Regional Transport Officers (RTOs) at unit level. RTOs are the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

#### 5.2 Internal Audit

The Internal Audit Wing of the STA has not conducted any audit after 2007-08. The reason was attributed to shortage of staff. However, the newly created Audit team of the Transport Department has been conducting internal audit of regional transport offices since 2011. During 2015-16, Internal Audit Wing of the Department had audited 9 out of 22 units offices planned for audit.

#### 5.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2015-16, test check of the records of 31 units relating to Motor Vehicle Tax, additional tax, registration fee, permit fee and penalty showed underassessment of tax and other irregularities involving ₹ 135.08 crore in 3,34,011 cases as indicated in the Table 5.1 below.

**Table 5.1**

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Non-levy / non-realisation of motor vehicle tax / additional tax and penalty	54,884	131.97
2.	Non-realisation / short realisation of compounding fee, permit fee and fitness fee etc.	2,76,506	2.87
3.	Short levy / realisation of motor vehicle tax / additional tax and penalty	9	0.01
4.	Non-realisation / short realisation of penalty on belated payment of tax	15	0.03
5.	Other irregularities	2,597	0.20
<b>Total</b>		<b>3,34,011</b>	<b>135.08</b>

During the course of the year 2015-16, the Department accepted under assessment and other deficiencies of ₹ 110.12 crore in 45,881 cases pointed

out during the year. An amount of ₹ 0.57 lakh was realised in 11 cases which were pointed out during the year.

## **B. EXPENDITURE**

In 2015-16, test check of records of 37 units showed irregularities in expenditure / cash management involving ₹ 0.02 crore in 84 cases which fell under the categories as indicated in the Table 5.2 below.

**Table 5.2**

(₹ in crore)			
<b>Sl. No.</b>	<b>Subject</b>	<b>No. of cases</b>	<b>Amount</b>
1.	Cash book and management of cash	39	0.02
2.	Others	45	Nil
<b>Total</b>		<b>84</b>	<b>0.02</b>

#### **5.4 Audit Observations**

Audit scrutinised the records relating to assessment and collection of motor vehicle tax in the offices of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA) and the Regional Transport Officers (RTOs) and found several cases of non-observance of some of the provisions of the Acts / Rules and other cases as mentioned in the succeeding paragraphs in this chapter. The cases are illustrative and are based on test check carried out by Audit. Such omissions remain undetected till next audit is conducted. The Government may improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided in future.

#### **5.5 Non-compliance of the provisions of the Acts / Rules**

The provisions of the Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder require levy and collection of:

- (i) motor vehicle tax (MV tax) / additional tax from the vehicle owner at the prescribed rate in advance and within the grace period provided; and
- (ii) penalty up to double the tax for belated payment of tax, if the tax is not paid on time within two months after the expiry of the grace period of 15 days.

Non-compliance of the provisions of the Acts / Rules in some cases are discussed in succeeding paragraphs.

### 5.5.1 Non-realisation of motor vehicle tax and additional tax from goods carriages, contract carriages and tractor trailer combinations

As per Sections 3, 3A, 4(1) and 10 of OMVT Act, 1975, MV tax and additional tax due on every motor vehicle used or kept for use should be paid in advance at the rates prescribed for different classes of vehicles in Schedule I of the Act, unless exemption from payment of such tax is allowed for the periods covered by off-road undertaking<sup>1</sup>. As per Section 13(1) of the Act read with Rule 9(2) of OMVT Rules, 1976, if the tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty at double the tax due.

During analysis of *Vahan*<sup>2</sup> database pertaining to payment of tax and further cross check of records like General Registration Registers (GRRs), and Off-Road Registers (ORRs) in the offices of RTOs, Audit observed (between May 2015 and March 2016) that registered owners of 36,244 vehicles of different classes (Goods carriages: 16,441, Contract carriages: 8,961 and Tractor Trailer combinations: 10,842), not covered under off-road undertakings, did not pay MV tax and additional tax for different periods between April 2012 and March 2015. The concerned RTOs neither issued demand notices nor did they take any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation of MV tax and additional tax of ₹ 38.04 crore and penalty of ₹ 76.08 crore. The details are given in the table below:

(₹ in crore)						
Sl. No.	Number of RTOs	Type of vehicles	Number of vehicles	Amount of tax not realised	Penalty leviable	Total
1	27 <sup>3</sup>	Goods carriages	16,441	26.11	52.22	78.33
2	29 <sup>4</sup>	Contract carriages	8,961	8.02	16.04	24.06
3	26 <sup>5</sup>	Tractor Trailer combinations	10,842	3.91	7.82	11.73
	<b>Total</b>		<b>36,244</b>	<b>38.04</b>	<b>76.08</b>	<b>114.12</b>

Source: *Vahan database*

After Audit pointed out (June 2016), Government stated (September 2016) that 20 RTOs had realised an amount of ₹ 2.06 crore from 761 vehicles<sup>6</sup> and in respect of 23,960 vehicles, demand notices had been issued (12,061 vehicles) and tax recovery proceedings initiated (11,899 vehicles). In the remaining cases, reply from the Government is awaited (October 2016).

<sup>1</sup> An undertaking given by the owner of the vehicle to the RTO and prior permission obtained from him for not plying the vehicle for a temporary period and not to pay tax for the said period.

<sup>2</sup> *VAHAN* is an application software which caters to all the requirements for registration of vehicles and collection of taxes by the Transport Department.

<sup>3</sup> Angul, Balangir, Balasore, Bargarh, Bhadrak, Bhubaneswar, Boudh, Chandikhol, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>4</sup> Angul, Balangir, Balasore, Bargarh, Bhadrak, Bhubaneswar, Boudh, Chandikhol, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Rayagada, Rourkela, Sambalpur, Subarnapur and Sundargarh.

<sup>5</sup> Angul, Balangir, Balasore, Bhadrak, Bhubaneswar, Boudh, Chandikhol, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>6</sup> 132 goods carriages (₹ 0.78 crore), 218 contract carriages (₹ 0.78 crore) and 411 tractor trailer combinations (₹ 0.50 crore).

### 5.5.2 Non-realisation / short realisation of motor vehicle tax and additional tax from stage carriages

As per Sections 3, 3A, 4(1) and 10 of OMVT Act, 1975, motor vehicle tax and additional tax due on every motor vehicle used or kept for use should be paid in advance at the rates prescribed for different classes of vehicles in Schedule I of the Act, unless exemption from payment of such tax is allowed for the periods covered by off-road undertaking. The rates of MV Tax and additional tax in respect of stage carriages are prescribed in Sl. No. 4(A) of the Schedule and levied at specific rates on every vehicle according to the description and other particulars such as distance covered by the vehicle in a day and nature of permit (express/ordinary). Further, as per Section 13(1) of the Act read with Rule 9(2) of OMVT Rules, 1976, if the tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty at double the tax due.

During analysis of *Vahan* database relating to payment of tax and further cross check of records such as GRRs, Permit Registers and ORRs of 16 RTOs<sup>7</sup>, Audit observed (between April 2015 and March 2016) that registered owners of 41 stage carriages did not pay or paid less MV tax and additional tax between April 2012 and March 2015 although these stage carriages were having valid route permits and were not covered by off-road undertakings. The RTOs neither issued demand notices nor took any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation / short realisation of MV tax and additional tax of ₹ 19.04 lakh<sup>8</sup>. Besides, penalty of ₹ 38.08 lakh was also leviable.

After Audit pointed out these cases, the RTOs stated (between May 2015 and April 2016) that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of the TC-cum-Chairman, STA, Odisha and the Government in May 2016; replies are awaited (November 2016).

### 5.5.3 Non-realisation / short realisation of motor vehicle tax from private service vehicles

As per Section 3, 4(1) and 10 of OMVT Act, 1975, MV Tax on every motor vehicle used or kept for use shall be levied and realised at the rates specified in the Schedule I of the Act unless the vehicle is covered under off-road undertaking. MV tax on Private Service Vehicle (PSV) is leviable at the rate of ₹ 800 per seat per annum with effect from 14 May 2010 under Item 5 A of the said Schedule on the basis of seating capacity excluding the driver's seat. Further, as per Section 13(1) of the Act read with Rule 9(2) of OMVT Rules, 1976, if the tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty at double the tax due.

<sup>7</sup> Bargarh, Balangir, Bhadrak, Dhenkanal, Gajapati, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Sambalpur, Subarnapur and Sundargarh.

<sup>8</sup> Non-realisation of ₹ 18.41 lakh in 34 cases and short realisation of ₹ 0.62 lakh in 7 cases.



During analysis of *Vahan* database pertaining to payment of tax with cross check of taxation records in the offices of 20 RTOs, Audit observed (between April 2015 and March 2016) that although 128 PSVs under 18 RTOs<sup>9</sup> were not covered by off road undertakings, the RTOs did not realise MV tax of ₹ 20.55 lakh from them for different periods between April 2012 and March 2015. Audit further observed that four<sup>10</sup> of the above 18 RTOs and the remaining two<sup>11</sup> RTOs short realised MV tax of ₹ 1.44 lakh from 18 PSVs during the above period due to application of tax lower than the prescribed rates. This led to non-realisation / short realisation of tax of ₹ 21.99 lakh. Since the period of delay involved in all these cases was more than two months, penalty of ₹ 43.98 lakh was also leviable.

After Audit reported (May 2016) the matter, Government stated (September 2016) that the RTOs of Bhadrak and Keonjhar have realised an amount of ₹ 1.88 lakh in two cases and initiated action by issue of demand notices and initiating tax recovery proceedings in 71 cases. In respect of the remaining cases, reply of Government is awaited (November 2016).

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<sup>9</sup> Balangir, Bargarh, Bhadrak, Bhubaneswar, Chandikhol, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nuapada, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>10</sup> Chandikhol, Jagatsinghpur, Kalahandi and Keonjhar.

<sup>11</sup> Gajapati and Nabarangpur.

# **Chapter VI**

## **Mining Receipts**



## CHAPTER VI

### MINING RECEIPTS

#### 6.1 Non-tax revenue Administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) (OM) Rules, 2007 framed thereunder. The above Act / Rules are administered by Director of Mines, Odisha under the overall supervision of Principal Secretary, Department of Steel and Mines. He is assisted by the Deputy Directors of Mines (DDM) and Mining Officers at the Circle level who are the assessing authorities (AAs) of mining receipts like royalty, dead rent, fees and fines etc. on raising and removal of minerals.

#### 6.2 Internal Audit

There are two auditors working under control of Steel and Mines Department for auditing circle offices against the 10 sanctioned strength posts. However, the internal Audit party of Directorate of Mines has audited 10 Circle Offices during the year 2013-14 and three during 2014-15. The Director of Mines had not chalked out any programme for its internal audit during 2015-16.

#### 6.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2015-16, test check of the records of 24 units relating to the Steel and Mines Department showed non-receipt / short receipt of Government Revenue and other irregularities amounting to ₹ 1,012.79 crore in 309 cases which fall under the categories as indicated in the Table 6.1 below.

**Table 6.1**

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1.	Non-receipt / short receipt of Government revenue under Government account	185	979.27
2.	Other irregularities	124	33.52
<b>Total</b>		<b>309</b>	<b>1,012.79</b>

During the course of the year 2015-16, the Department accepted under assessment and other deficiencies of ₹ 4.58 crore in 110 cases pointed out during the year. An amount of ₹ 27.68 crore was realised during 2015-16 in 80 cases pointed out in earlier years.

**B. EXPENDITURE**

In 2015-16, test check of records showed irregularities in expenditure / cash management involving ₹ 1,247.83 crore in 41 cases which fall under the categories as indicated in the Table 6.2 below.

**Table 6.2**

(₹ in crore)

<b>Sl. No.</b>	<b>Subject</b>	<b>No. of cases</b>	<b>Amount</b>
1.	Blockage of funds due to delay in completion of work	0	0
2.	Other irregularities	41	1,247.83
<b>Total</b>		<b>41</b>	<b>1,247.83</b>

During the year, the Department neither furnished any reply to the above 41 cases nor realised any amount against the objection raised.

## 6.4 Audit Observations

Audit scrutinised the records maintained in the offices of the Director of Mines, Odisha, Deputy Directors of Mines (DDMs) and Mining Officers and observed short levy of royalty as discussed in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit.

## 6.5 Non-observance of provisions of the Acts / Rules / New pricing policy

Mines and Minerals (Development and Regulation) Act, 1957, Mineral Concession Rules, 1960, Mineral Conservation and Development Rules, 1988 read with the notifications and instructions of the State / Central Government issued from time to time provide for assessment, levy and realisation of royalty at the prescribed rate.

Cases of short levy of royalty involving ₹150.07 crore are discussed in the following paragraphs.

### 6.5.1 Short levy of royalty on sized coal

As per Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from a lease area at the rate specified in the Second Schedule in respect of that mineral. As per Ministry of Coal Notification<sup>1</sup> dated 10 May 2012, royalty on non-coking coal is leviable at the flat rate of 14 *per cent ad valorem* on the price of coal as reflected in the invoice excluding taxes, levies and other charges. Further, as per Notification of Coal India Limited of October 2009 effective up to 16 December 2013 and subsequent Notification<sup>2</sup> in December 2013 effective from 17 December 2013, if the top size<sup>3</sup> of coal is limited to 100 mm through manual facilities or mechanical means, sizing charge at the rate of ₹ 61 and ₹ 79 per tonne respectively shall be added to the price applicable to run-of-mine<sup>4</sup> (ROM) coal. As per the guidelines appended to the Mineral Conservation and Development Rules, 1988, pit's mouth<sup>5</sup> value should represent the sale value of the mineral at the pit head<sup>6</sup>. Under Rule 64(B)(1) of the Mineral Concession Rules, 1960, in case processing of run-of-mine (ROM) minerals is carried out within the leased area, the royalty shall be chargeable on the processed mineral removed from the lease area.

During scrutiny of assessment records with reference to monthly returns of productions and despatches in the office of the Deputy Directors of Mines (DDMs) of Talcher and Sambalpur, Audit observed (April and May 2015) that a lessee<sup>7</sup> had dispatched 373.43 lakh tonnes of sized coal of less than 100 mm size from the pit heads of its 11 Open Cast Projects (OCPs) during the period from April 2013 to December 2013 and 989.12 lakh tonnes of sized coal of the

<sup>1</sup> Notification No. CIL/ S&M/ GM (F)/ 261 dated 10 May 2012.

<sup>2</sup> Notification No. CIL/ S&M/ GM (F)-Pricing-2784 dated 16 December 2013.

<sup>3</sup> A pre-determined size which is not exceeded while sizing mineral by manual or mechanical means.

<sup>4</sup> Run of mine (ROM) coal is the coal obtained directly from the mine in its natural, unprocessed state.

<sup>5</sup> The Pit's Mouth Value represents the sale value of the mineral at the pit head.

<sup>6</sup> Pit head is the entrance and the surrounding area of a mine.

<sup>7</sup> Mahanadi Coalfields Limited (MCL).

same size during the period from January 2014 to March 2015. However, instead of paying royalty on the price of sized coal including sizing charges at the rate of ₹ 61 per tonne up to 16 December 2013 and ₹ 79 per tonne from 17 December 2013, the lessee paid royalty on the basic pit head price of ROM coal. The DDMs, while assessing royalty for the above period, also failed to levy royalty on coal after including sizing charges thereon. This led to short levy of royalty of ₹ 141.29 crore at the differential rate of royalty of ₹ 8.54 per tonne<sup>8</sup> up to 16 December 2013 and ₹ 11.06 per tonne<sup>9</sup> thereafter.

After Audit reported the matter, Government stated (December 2016) that the DDMs of Talcher and Sambalpur had raised demands on the lessee as per the audit observation. However, the lessee has preferred appeals before the Revisional Authority of Ministry of Coal against the said demands and obtained stay orders.

### **6.5.2 Potential short levy of royalty on coal due to non-analysis of gross calorific value**

Prior to January 2012, non-coking coal was being categorised into seven different grades from A to G, determined by useful heat value (UHV) method. As per Government of India, Ministry of Coal (MoC) Notification effective from 1 August 2007, the rate of royalty on coal including non-coking coal of different grades was a combination of a specific fixed value and a variable *ad valorem* rate of five *per cent* of the pithead price of run-of-mine (ROM) coal. Accordingly, royalty on 'E' grade coal was fixed at ₹ 70 plus five *per cent* of pithead price of ROM coal per tonne. The gross calorific value (GCV) of 'E' grade coal exceeds 4,324 but does not exceed 5,089. However, the MoC introduced the new pricing policy for non-coking coal, based on GCV, with effect from 1 January 2012 categorising non-coking coal under 17 different GCV bands with the minimum GCV of the lowest band exceeding 2,200. The MoC also introduced the system for assessment of royalty at a flat rate of 14 *per cent ad valorem* with effect from 10 May 2012. Sub-Rule (6) of Rule 10 of the Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining etc.) Rules, 2007 requires that before forwarding the application of a lessee for removal of minerals to the Mining Officer / DDM, the Senior Inspector of Mines shall verify the stacks of minerals with reference to the chemical analysis report within seven days of receipt of application.

During scrutiny of assessment of royalty and other related records in the office of the DDM, Rourkela, Audit observed (January and February 2014) that prior to January 2012, royalty on 'E' grade ROM coal despatched through rail by Mahanadi Coalfields Limited (MCL) from its Kulda Open Cast Project was being levied at the rate of ₹ 106.50 per tonne<sup>10</sup> on the applicable pithead price of ₹ 730 per tonne. However, after introduction of new pricing policy for coal based on GCV, the MCL, in its returns, showed the grade of coal under GCV band of 4,001-4,300 corresponding to 'F' grade coal of the UHV system and paid royalty on the sale price of ₹ 640 per tonne in case of power sector and

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<sup>8</sup> 14 *per cent* of ₹ 61 = ₹ 8.54

<sup>9</sup> 14 *per cent* of ₹ 79 = ₹ 11.06

<sup>10</sup> Fixed value ₹ 70 + ₹ 36.50 (5 *per cent* of basic pit head price of ₹ 730 ROM) = ₹ 106.50

₹ 870 per tonne in case of non-power sector during the period from 1 January 2012 to 31 March 2013 instead of ₹ 780 and ₹ 1,050 respectively per tonne applicable for the GCV band of 4,301-4,600. Audit observed that although the lessee who was paying royalty on price applicable to 'E' grade coal under the UHV method suddenly disclosed the GCV range of coal as 4,001-4,300 from January 2012 onwards, the DDM accepted the same and assessed royalty on the price applicable to such downgraded coal without ascertaining the genuineness of the GCV disclosed. Sample analysis reports certifying the GCV range of coal despatched by the lessee during the period from January 2012 to March 2013 could not be furnished to Audit to ascertain the genuineness of the GCV disclosed. Thus, irregular assessment of royalty on downgraded coal was fraught with the risk of short levy of royalty of ₹ 8.78 crore on 42,53,597 tonnes (Power sector: 38,54,958 tonnes and non-power sector: 3,98,639 tonnes) coal despatched during the period from January 2012 to March 2013.

After Audit reported (July 2016) the matter, Government stated (August 2016) that the DDM, Rourkela had demanded ₹ 8.78 crore towards short realisation of royalty on 'E' grade coal. However, the MCL has filed a revision application before the Revision Authority of Ministry of Coal who has issued (July 2015) stay orders on the demand.





# **Chapter VII**

**Follow-up of previous  
audit recommendations**



## CHAPTER VII

### FOLLOW-UP OF PREVIOUS AUDIT RECOMMENDATIONS

#### 7.1 Follow-up Audit on “Computerisation in the Motor Vehicles Department”

##### 7.1.1 Introduction

A Performance Audit (PA) on “Computerisation in the Motor Vehicles Department” covering the implementation of both *Vahan* and *Sarathi* had featured in paragraph 3.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2011 in respect of Government of Odisha in which the following recommendations were made for improving efficiency.

1. The centralised online data management system should be made operational on real time basis by establishing connectivity among all Regional Transport Offices of the State with the State Transport Authority;
2. Gaps in the mapping process may be identified and incorporated in the system;
3. Proper input and validation controls should be put in the system for authentication of the data; and
4. Appropriate supervisory controls over the work entrusted to the concessionaire should be put in place.

The above four recommendations were based on 31 audit observations. The Department had accepted all the recommendations and agreed to take corrective measures.

##### 7.1.2 Scope of Audit

With a view to assessing whether the recommendations made in the PA on “Computerisation in the Motor Vehicles Department” had been adequately and effectively implemented by the Department, Audit was conducted during July and August 2016 in three Regional Transport Offices (RTOs)<sup>1</sup> covering the period 2011-15. Besides, the records of State Transport Authority (STA) and the Department were also test-checked. Audit collected information from the Department through issue of questionnaires and verified the correctness of such information through analysis of the databases of *Vahan* and *Sarathi* to arrive at the conclusions. The integrity, authenticity and reliability of data in respect of IT systems were analysed using SQL<sup>2</sup> and IDEA<sup>3</sup>.

##### 7.1.3 Audit Findings

The follow-up of recommendations made in the PA showed the following:

**7.1.3.1** The first recommendation envisaged making the centralised online data management system operational on real time basis by establishing connectivity among all the Regional Transport Offices of the State with the State Transport Authority. The Department stated (August 2016) that

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<sup>1</sup> Cuttack, Bhubaneswar-I and Ganjam.

<sup>2</sup> Structured Query Language.

<sup>3</sup> Interactive Data Extraction and Analysis.

connectivity had been established among all the RTOs and the State Unit of National Informatics Centre (NIC). Audit, however, observed that although migration of 26 out of total 38 RTOs/ Additional Regional Transport Offices (ARTOs) to central database had been completed, yet direct connectivity among all the RTOs of the State and the STA was absent for real time online data management. Despite existence of adequate facility for horizontal connectivity with the State Wide Area Network, as seen from the letter of Government of India, Ministry of Communication and Information Technology dated 8 April 2015, the Department had not availed of the same. As a result, the Department is yet (August 2016) to integrate its database to the web-enabled versions of *Vahan* 4.0 and *Sarathi* 4.0, which would have helped in incorporating validation checks inbuilt in the software. Further, the Department had proposed to integrate *e-Disha*<sup>4</sup> with the treasury payment gateway<sup>5</sup> for widening the online payment facility for effective launching of various citizen-centric, quick and efficient e-services and to ensure transparency in the transactions of transport sector. However, as verified by Audit, only e-Challans were being transmitted to the corresponding RTO automatically. It was also observed that many of the e-Challans were incomplete and online payment of tax has not been implemented. The details are shown in **Appendix-7.1.1**.

**7.1.3.2** The second recommendation envisaged identification of gaps in the mapping process. Audit observed from the *Vahan* database that though mapping of business processes in the case of omnibuses, private service vehicles and certain categories of goods carriages had been substantially addressed, necessary modifications in mapping of business process for registration of vehicles with unladen weight of more than 6,000 kilograms, attracting higher rate of tax, were not done. From test check of database, it was observed that in RTO, Bhubaneswar, in respect of 6 out of 1,875 cases, taxes were realised at higher rate from the vehicles by entering the tax manually.

**7.1.3.3** The third recommendation envisaged putting proper input and validation controls in the system for authentication of data. The Department stated (August 2016) that migration of the legacy data and the entry of details of tax payments into *Vahan* were under process. Audit, on test check for the period 2011-16, observed persistence of input and validation control issues in the areas as detailed below:

- In RTO, Cuttack, Driving Licences for transport vehicles were issued in 609 out of 39,403 cases by taking tests in two wheelers;
- In three test checked RTOs, fields meant for entry of identification marks were left blank in 3.11 lakh out of 11.20 lakh cases rendering the database incomplete;

In the test checked RTOs, from analysis of the *Sarathi* database, it was observed that 160 out of 11.20 lakh Driving Licences of transport category were issued to applicants having qualifications below seventh standard, although minimum qualification of eighth standard for issue of transport licences was stipulated in the rules. Due to the absence of data validation checks, the system failed to weed out such applications.

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<sup>4</sup> Implementation of various on-line services in the Transport sector w.e.f. 7.4.2010 through a scheme called *e-Disha*.

<sup>5</sup> Customisation of payments through online by integrating with Odisha Treasury payment gateway.

- Requisite qualifications were not insisted upon in 64,772 cases while issuing transport licences; and
- Out of 1.2 lakh cases examined in audit, it was observed that multiple driving licences were issued to single persons in 104 cases.

**7.1.3.4** As regards the fourth recommendation for ensuring appropriate supervisory controls over the work entrusted to the concessionaire, Audit observed that although the enforcement module of *Sarathi* had been made operational, for issue of permits and temporary registrations, the Department depended on an alternative software, viz. Permit Issuance Management System, developed by a third party. Further, no supplementary agreement incorporating a clause on option for issue of new smart card in case of cancellation of hypothecation was executed with the concessionaire. Manual intervention in calculation and collection of tax still continued even though the matter was pointed out earlier. It was observed that due to existence of such manual intervention, a financial fraud occurred during 2013-14 in the RTO, Bargarh by making unauthorised tax clearance entries in the module and manipulating tax payment details related to the earlier period through a backlogtaxmod.exe programme file as observed by the Transport Commissioner in October 2013. Other issues, such as, delay in issue of choice numbers, delay in issue of smart card based registration certificates (SCBRCs)/ smart card based driving licences (SCBDLs), posting of Assistant Programmers, use of security paper for issue of learner's licences, issue of SCBRCs / SCBDLs without their activation, lack of documentation and non-adoption of a strong password policy were, however, fully addressed by the Department.

**Bhubaneswar  
The**

**(DEVIKA NAYAR)  
Principal Accountant General (E & RSA)  
Odisha**

**Countersigned**

**New Delhi  
The**

**(SHASHI KANT SHARMA)  
Comptroller and Auditor General of India**



# Appendices





## Appendix 2.4.1

(Refer paragraph 2.4.2.2 at page 16)

## Trend of disposal of appeals in the selected ranges

(₹ in crore)

2012-13											
Range	Opening Balance		Receipt during the year		Total		Disposed of during the year		Closing Balance		Percentage of disposal
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
Angul	86	19.48	28	6.86	114	26.34	66	20.35	48	5.99	57.89
Cuttack-II	363	21.63	87	21.5	450	43.13	304	10.02	146	33.11	67.56
Balasore	1941	9.71	160	20.34	2101	30.06	203	14.31	1898	15.75	9.66
Sundargarh	651	37.30	235	77.91	886	115.21	204	26.04	682	89.17	23.02
<b>Total</b>	<b>3041</b>	<b>88.12</b>	<b>510</b>	<b>126.61</b>	<b>3551</b>	<b>214.74</b>	<b>777</b>	<b>70.72</b>	<b>2774</b>	<b>144.02</b>	<b>21.88</b>
2013-14											
Range	Opening Balance		Receipt during the year		Total		Disposed of during the year		Closing Balance		Percentage of disposal
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
Angul	48	5.99	69	13.75	117	19.74	61	8.75	56	10.99	<b>52.14</b>
Cuttack-II	146	33.11	359	27.8	505	60.91	344	16.62	161	44.29	<b>68.12</b>
Balasore	1898	15.75	111	6.89	2009	22.64	480	10.91	1529	11.73	<b>23.89</b>
Sundargarh	682	89.17	196	15.97	878	105.14	97	10.32	781	94.82	<b>11.05</b>
<b>Total</b>	<b>2774</b>	<b>144.02</b>	<b>735</b>	<b>64.41</b>	<b>3509</b>	<b>208.43</b>	<b>982</b>	<b>46.6</b>	<b>2527</b>	<b>161.83</b>	<b>27.99</b>
2014-15											
Range	Opening Balance		Receipt during the year		Total		Disposed of during the year		Closing Balance		Percentage of disposal
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
Angul	56	10.99	36	2.4	92	13.39	41	10.72	51	2.67	<b>44.57</b>
Cuttack-II	161	44.29	66	90.42	227	134.71	171	19.03	56	115.68	<b>75.33</b>
Balasore	1529	11.73	91	17.21	1620	28.94	402	11.09	1218	17.85	<b>24.81</b>
Sundargarh	781	94.82	125	21.93	906	116.75	190	13.1	716	103.65	<b>20.97</b>
<b>Total</b>	<b>2527</b>	<b>161.83</b>	<b>318</b>	<b>131.96</b>	<b>2845</b>	<b>293.79</b>	<b>804</b>	<b>53.94</b>	<b>2041</b>	<b>239.85</b>	<b>28.26</b>

**Appendix 3.4.1**

**(Refer paragraph 3.4.7.1 at page 52)**

**Statement showing DEO-wise renewal of licence for the period from  
1999-2000 to 2015-16**

<i>Sl. No.</i>	<i>Name of the Excise District</i>	<i>No. of licences</i>	<i>Year in which licence issued</i>
1	Bargarh	13	2003-04 to 2010-11
2	Bolangir	18	1999-00 to 2011-12
3	Cuttack	143	2001-02 to 2011-12
4	Dhenkanal	36	1999-00 to 2011-12
5	Khordha	85	1999-00 to 2011-12
6	Sambalpur	29	2001-02 to 2010-11
7	Sundargarh	39	1999-00 to 2011-12
8	Berhampur	52	2011-12
	<b>Total</b>	<b>415</b>	

## Appendix 3.4.2

(Refer paragraph 3.4.7.2 at page 53)

## Statement showing number of licenses renewed without support of requisite documents during 2011-12 to 2015-16

Sl. No.	Name of the Excise District Office	Category of Shops						No. of cases in which requisite documents not furnished										
		OFF	ON	BP	OS	CS	Total	Solvency Certificate	VAT clearance	IT Clearance certificate	Copy of PAN card	Copy of Voter ID	Affidavit Certificate	Lease agreement	Bank Guarantee	NDC	BD for advance Consideration money	Food licence for ON Shops
1	Bargarh	4	6	14	0	0	24	3	0	0	4	4	0	23	4	4	4	6
2	Berhampur	14	14	5	4	0	37	4	3	3	0	0	0	9	0	0	0	14
3	Balangir	72	40	25	33	0	170	11	3	61	6	18	1	28	170	0	0	3
4	Cuttack	24	26	2	0	20	72	12	51	6	0	0	5	0	0	0	0	5
5	Dhenkanal	236	11	12	79	0	338	37	30	285	27	66	53	186	338	0	0	7
6	Khordha	228	159	25	0	50	462	88	46	168	38	63	15	173	242	0	0	40
7	Sambalpur	16	10	0	0	0	26	9	5	0	0	0	14	2	0	0	0	8
8	Sundargarh	241	70	8	49	0	368	98	60	315	75	270	300	336	367	0	0	36
	<b>Total</b>	<b>835</b>	<b>336</b>	<b>91</b>	<b>165</b>	<b>70</b>	<b>1497</b>	<b>262</b>	<b>198</b>	<b>838</b>	<b>150</b>	<b>421</b>	<b>388</b>	<b>757</b>	<b>1121</b>	<b>4</b>	<b>4</b>	<b>119</b>

**Appendix 3.4.3**

(Refer paragraph 3.4.7.3 at page 53)

**Statement showing the details of loss of excise revenue due to less/short realisation of licence fee during 2015-16 from Distillery/ Bottling units for the year 2016-17 as per the modifications incorporated in the State Excise policy 2016-17**

<i>Sl. No.</i>	<i>Name of the Distilleries/ bottling plants</i>	<i>Name of the Excise District</i>	<i>Year</i>	<i>Installation capacity (LPL/BL)</i>	<i>Annual licence fee paid for 2015-16 based on slab rate</i>	<i>Quantity of intoxicant supplied during January to December 2015</i>	<i>Annual licence fee paid for 2016-17 based on supply during January to December 2015</i>	<i>Less (-)/ Excess (+) realisation of licence fee for 2016-17</i>
1	M/s Kquality Bottlers (P) Ltd.	Khordha	2015-16	1622073	4200000	405591	608387	3591613
2	M/s Oriental Bottling (P) Ltd.	Khordha	2015-16	6950512	8200000	5318857	7978286	221714
3	M/s Trinath Smart Pack (P) Ltd.	Khordha	2015-16	2544696	4200000	1535953	2303930	1896070
4	M/s Fortune Spirit Ltd., Gopalpur	Ganjam	2015-16	up to 6000000	6200000	2772802	4159203	2040797
5	M/s United Spirit Ltd., Gopalpur	Ganjam	2015-16	12000001 and above	10000000	13617381	6808690	3191310
6	M/s Sakthi Distillery (P) Ltd.	Dhenkanal	2015-16	12000001 and above	10000000	11386248	5693124	4306876
7	M/s Maikal Breweries (P) Ltd., Paradeep	Bolangir	2015-16	10800000	8000000	1469052	3672630	4327370
	<b>Total</b>							<b>19575750</b>

## Appendix 3.4.4

(Refer paragraph 3.4.7.5 at page 55)

Statement showing loss of revenue due to cancellation of sanctioned excise shops operating on Government Land

<i>Sl. No.</i>	<i>Name of the District</i>	<i>No. of OFF Shops</i>	<i>No. of OS shops</i>	<i>No. of CS shops</i>	<i>Total No. of shops</i>	<i>Total loss of revenue (₹ in crore)</i>
1	Khordha	1	0	0	1	0.99
2	Dhenkanal	4	3	0	7	3.21
3	Cuttack	19	0	15	34	38.37
4	Balangir	0	8	0	8	0.99
5	Sundargarh	0	4	0	4	0.93
6	Sambalpur	0	12	0	12	7.81
	<b>Total</b>	<b>24</b>	<b>27</b>	<b>15</b>	<b>66</b>	<b>52.31</b>

**Appendix 3.4.5**

(Refer paragraph 3.4.7.6 at page 56)

**Statement showing loss of excise revenue due to closure of sanctioned retail shops operating on private land**

Sl. No.	Name of the Excise District	Name of the Shop	Category of shops	Date of Cancellation	Date of Renewal	Licence fee per month	Total	MGQ fixed for the month		Total MGQ		IMFL @ ₹204 per LPL	Beer @ ₹30 per BL	Total revenue loss (₹ in crore)
								IMFL (LPL)	Beer (BL)	IMFL (LPL)	Beer (BL)			
1	Dhenkanal	Baladiabandh	FL Off	01-04-2014	31-12-2014	42507	382563	1063	1488	9564	13390	1951071	401691	0.27
2		Kaimati	FL Off	01-04-2014	31-12-2014	58546	526914	1464	2049	13173	18442	2687261	553260	0.38
3		Dhenkanal No. 3	FL Off	01-04-2014	31-12-2014	220966	1988694	6629	8839	59661	79548	12170807	2386433	1.65
		<b>Total (3 shops)</b>												
4	Khordha	Kalinganagar Market	FL Off	01-04-2014	31-08-2014	64399	321995	2318	3091	11590	15455	2364360	463650	0.32
5		Sikko	FL Off	01-04-2014	31-08-2014	64399	321995	1932	2705	9660	13525	1970640	405750	0.27
6		Malipada	FL Off	01-04-2014	31-08-2014	64399	321995	1932	2705	9660	13525	1970640	405750	0.27
7		Bhusandpur	FL Off	01-04-2014	31-08-2014	85866	429330	2576	3606	12880	18030	2627520	540900	0.36
	<b>Total (4 shops)</b>													<b>1.21</b>
	<b>Grand Total (7 shops)</b>													<b>3.52</b>

**Appendix 3.4.6**

(Refer paragraph 3.4.7.8 at page 57)

**Statement showing grant of licences for retail shops in favour of owners of Brewery and Bottling Unit**

Sl. No.	Name of the Breweries/Bottling Plant	Partner Sl. No.	Address	District	Year
1	M/s Maikal Breweries P. Ltd., Balangir	1	No.6 Ashok Nagar	Khordha	2015-16
2			Khariar Road	Nuapada	
3			Tusura	Balangir	
4		Ghasian	Balangir		
5		Lakhna	Nuapada		
6		No.2 Kantabanjhi	Balangir		
7		No.1 Patnagarh	Balangir		
8		No.3 Balangir	Balangir		
9	M/s Shakti Maltaire and Lemaonade P. Ltd., Dhenkanal	3	Odapada	Dhenkanal	
10			Nakchi Bazar	Angul	
11		4	Telebhuin Bazar	Dhenkanal	
12			TTPS	Angul	
13			Banarpal	Angul	
14			Artasanatarakateni	Dhenkanal	
15			Kandasar	Angul	
16			No.1 Talcher	Angul	
17			DeraChhak	Angul	
18			FCI Township	Angul	
19			No.4 Handidhua	Angul	
20			South Balanda	Angul	
21			NTPC Kaniha	Angul	
22			No.1 Angul	Angul	
23			Kamakhyanagar	Dhenkanal	
24			Rengali	Angul	
25			Bamur	Angul	
26			Chhendipada	Angul	
27			No.3 Angul	Angul	
28		5	MangalpurKantabania	Dhenkanal	
29	Ghantiloposi		Dhenkanal		
			<b>29 FL Off Shops</b>		
30	M/s Maikal Breweries P. Ltd, Balangir	6	Lathor OS Shop	Balangir	2015-16
31			Khaprakhol OS Shop	Balangir	
32			Jamki OS Shop	Balangir	
33			Dhumabhata OS Shop	Balangir	
34			Ghagurly OS Shop	Balangir	
35			Kapani OS Shop	Balangir	
36			Sibtala OS Shop	Balangir	
	<b>01 Brewery and 01 Bottling Plant</b>	<b>06 partners</b>	<b>07 OS Shops</b>		



Appendix 3.4.7

(Refer paragraph 3.4.9.1 at page 63)

Statement showing short realisation of Excise Duty towards conversion of shortfall MGQ of Beer adopting less rate of duty for 2015-16

Sl. No.	Name of the Excise District	Name of the shop	Monthly MGQ fixed		Annual MGQ fixed		Annual Quantity Lifted		Short lifted MGQ	MGQ lifted after conversion at the rate of ₹250 per LPL and ₹30 per BL	MGQ was to be lifted after conversion at the rate of ₹276 per LPL and ₹47 per BL	Differential shortfall not lifted	Excise Duty @ ₹276 per LPL	Excise Duty already realised	Net Excise Duty to be realised
			IMFL (LPL)	Beer (BL)	IMFL (LPL)	Beer (BL)	IMFL (LPL)	Beer (BL)							
1	Bolangir	Balangir No. 1	3514	5270	42164	63246	36805	57478	5767	692	982	290	80014	0	80014
2	Bolangir	Chudapali	1405	2108	16861	25292	8791	19868	5424	651	924	273	75282	0	75282
3	Sundargarh	Bisra Road No.I	6928	10392	83134	124702	91535	55132	69570	8348	11847	3499	965631	0	965631
4	Sundargarh	PanposhChowk	3959	5938	47506	71258	53170	24661	46598	5592	7935	2343	646777	0	646777
5	Sundargarh	BisraChowkRkl	7423	11134	89072	133609	100598	37614	95995	11519	16347	4828	1332404	0	1332404
6	Sundargarh	Tangarpalli Off	6730	10095	80758	121138	88452	58091	63047	7566	10736	3171	875089	0	875089
7	Sundargarh	Lathikata	2749	4124	32991	49486	35621	27610	21876	2625	3725	1100	303636	0	303636
8	Sundargarh	Sector-2 Rkl	7274	10911	87291	130937	92558	64872	66065	7928	11250	3322	916977	0	916977
9	Sundargarh	KoelnagarRkl	6299	9449	75593	113390	86057	30483	82907	9949	14118	4169	1150744	0	1150744
10	Sundargarh	Uditnagar-No-2,Rkl	4454	6681	53445	80168	56165	58102	22065	2648	3757	1110	306264	0	306264
11	Sundargarh	Bisra Road No.2	7069	10604	84831	127247	91156	74537	52710	6325	8976	2651	731613	0	731613
12	Sundargarh	Uditnagar-No-1,Rkl	4602	6903	55226	82839	60651	38125	44714	5366	7614	2249	620628	0	620628
13	Sundargarh	Biramitrapur	4854	7281	58251	87377	63166	46428	40949	4914	6973	2059	568369	0	568369
14	Sundargarh	7 & 8 area Rkl	9030	13545	108356	162540	118373	79132	83408	10009	14204	4195	1157702	0	1157702
15	Sundargarh	Sector 19 Rkl	10689	16033	128263	192395	145182	53945	138450	16614	23577	6963	1921682	0	1921682
16	Sundargarh	Sector-5 Rkl	6666	9998	79988	119982	87641	56368	63613	7634	10833	3199	882951	0	882951
17	Sundargarh	Rajgangpur No.1	4760	7140	57121	85682	62559	30900	54782	6574	9329	2755	760368	294436	465932
18	Sundargarh	Rajgangpur No.2	4949	7423	59382	89073	64623	35268	53805	6457	9162	2706	746816	307086	439730
19	Sundargarh	NayabazarRkl	5278	7918	63340	95010	69364	45163	49848	5982	8489	2507	691885	0	691885
20	Sundargarh	Sector-15, Rkl	6928	10392	83134	124702	89644	71088	53614	6434	9130	2696	744156	0	744156
21	Sundargarh	Chhend,Rkl	4713	7069	56554	84831	60662	50622	34209	4105	5825	1720	474821	0	474821
22	Sundargarh	PH Road, Rkl	5750	8625	68996	103495	77395	34751	68744	8249	11706	3457	954165	0	954165
23	Sundargarh	Jhirpani	3711	5567	44538	66806	48599	32984	33822	4059	5760	1701	469448	0	469448
24	Sundargarh	Kuanarmunda	1700	2550	20402	30603	21440	22252	8351	1002	1422	420	115907	0	115907
25	Sundargarh	BasantiColony,Rkl	4451	6677	53415	80123	59486	30068	50055	6007	8524	2517	694758	0	694758
26	Sundargarh	Barsuan	2040	3060	24482	36724	26269	22033	14690	1763	2502	739	203903	0	203903
27	Sundargarh	Samardari	1700	2550	20402	30603	21201	20403	10200	1224	1737	513	141574	0	141574
28	Sundargarh	Vedvyas, TCI Chakk	4870	7305	58440	87659	61391	46414	41245	4949	7024	2074	572482	0	572482
29	Sundargarh	Daily Market No-3	5016	7525	60197	90296	66253	39889	50408	6049	8584	2535	699658	0	699658
30	Sundargarh	Tuniapai	1452	2177	17418	26127	19246	11566	14562	1747	2480	732	202117	0	202117
31	Sundargarh	Raibaga	1626	2439	19509	29263	20808	18452	10811	1297	1841	544	150059	0	150059
32	Sundargarh	Tensa O point	1161	1742	13935	20902	15143	10852	10050	1206	1711	505	139491	0	139491
33	Khordha	Acharya Viha	8413	12619	100956	151428	88164	29010	122418	14690	20846	6156	1699157	0	1699157
34	Khordha	Khordha No.2	5938	8907	71256	106884	78168	60616	46268	5552	7879	2327	642205	0	642205
35	Khordha	Kharvelanagar No.1	5839	8759	70068	105108	77160	47720	57388	6887	9773	2886	796543	0	796543

Sl. No.	Name of the Excise District	Name of the shop	Monthly MGQ fixed		Annual MGQ fixed		Annual Quantity Lifted		Short lifted MGQ	MGQ lifted after conversion at the rate of ₹250 per LPL and ₹30 per BL	MGQ was to be lifted after conversion at the rate of ₹276 per LPL and ₹47 per BL	Differential shortfall not lifted	Excise Duty @ ₹276 per LPL	Excise Duty already realised	Net Excise Duty to be realised
			IMFL (LPL)	Beer (BL)	IMFL (LPL)	Beer (BL)	IMFL (LPL)	Beer (BL)							
36	Khordha	Kalpana,No-1	7324	10986	87888	131832	96778	64388	67444	8093	11485	3392	936125	0	936125
37	Khordha	Sundarpada	4080	6121	48960	73452	56693	12392	61060	7327	10398	3071	847516	0	847516
38	Khordha	Ashok Nagar - 1	5988	8982	71856	107784	80823	44371	63413	7610	10799	3189	880170	0	880170
39	Khordha	Mayfair Conventio	100	300	1200	3600	700	1506	2094	251	357	105	29065	0	29065
40	Khordha	Hotel Kharavela	100	300	1200	3600	1114	3406	194	23	33	10	2698	0	2698
41	Khordha	Ashok Nagar No.5	5444	8165	65328	97980	70773	58729	39251	4710	6684	1974	544801	0	544801
42	Khordha	Sriya Talkies Road No-1	8709	13064	104508	156768	119686	60907	95861	11503	16324	4821	1330556	0	1330556
43	Dhenkanal	Dhenkanal No-I	5246	7868	62947	94421	70206	36671	57750	6930	9834	2904	801572	0	801572
44	Dhenkanal	Jhargadia	578	866	6930	10395	7153	8570	1825	219	311	92	25325	0	25325
45	Dhenkanal	Dhenkanal No-3	6364	9546	76366	114549	75817	55580	58969	7076	10042	2966	818486	0	818486
<b>Total</b>									<b>2136284</b>	<b>256354</b>	<b>363787</b>	<b>107433</b>	<b>29651588</b>	<b>601522</b>	<b>29050066</b>

**Appendix 3.4.8**

(Refer paragraph 3.4.9.2 at page 63)

**Statement showing loss of revenue due to shortage of HBS and IMFL of M/s Utkal Distillery Ltd., Khordha**

Brand Name	Stock as per Book Balance		Physically found on verification dated 11 Jul-14		Physically found on verification dated 18-May-14		Shortages dated 18-May-16		Loss of revenue (₹ in lakhs)
	BL	LPL	BL	LPL	BL	LPL	BL	LPL	
HBS*	5327	5540.08	5327	5540.08	0	0	5327	5540.08	53.27
HBS	397.5	395.115	397.5	395.115	0	0	397.5	395.115	3.975
HBS	196.5	208.2	196.5	208.2	0	0	196.5	208.2	1.965
HBS	27	27.675	27	27.675	0	0	27	27.675	0.27
HBS	1597	1772.67	1597	1772.67	1597	172.67	0	0	0
<b>Total</b>	<b>7545</b>	<b>7943.74</b>	<b>7545</b>	<b>7943.74</b>	<b>1597</b>	<b>0</b>	<b>5948</b>	6171.07	<b>59.48</b>
Celebration Rum+	351	263.25	351	263.25	0	0	351	<b>263.25</b>	<b>0.73</b>
<b>Total</b>	<b>839000 numbers</b>	0	0	0	0	0	0	<b>839000 numbers</b>	<b>60.21</b>

## Appendix 3.4.9

(Refer paragraph 3.4.10.1 at page 65)

Statement showing shortage of vehicles in Excise Department as on 31 March 2016

<i>Sl. No.</i>	<i>Name of the District</i>	<i>No. of Vehicles required</i>	<i>No. of Vehicles available</i>	<i>Shortage of vehicle</i>
1	Balasore	7	2	5
2	Bhadrak	4	2	2
3	Cuttack	12	3	9
4	Jagatsinghpur	6	1	5
5	Jajpur	4	1	3
6	Kendrapara	3	1	2
7	Khordha	8	2	6
8	Mayurbhanj	14	2	12
9	Nayagarh	5	2	3
10	Puri	3	2	1
11	Angul	8	3	5
12	Bargarh	9	1	8
13	Balangir	8	2	6
14	Deogarh	2	2	0
15	Dhenkanal	6	2	4
16	Jharsuguda	5	1	4
17	Keonjhar	11	2	9
18	Sambalpur	8	3	5
19	Subarnapur	4	1	3
20	Sundargarh	17	3	14
21	Boudh	5	1	4
22	Gajapati	4	1	3
23	Ganjam	9	4	5
24	Berhampur	9	1	8
25	Kalahandi	10	1	9
26	Koraput	12	1	11
27	Malkangiri	4	1	3
28	Nabarangpur	7	2	5
29	Nuapada	5	1	4
30	Kandhamal	5	1	4
31	Rayagada	8	2	6
32	EI & EB -I, Ctc	2	2	0
33	EI & EB -II,(CD), Ctc	1	2	0
34	EI & EB -II,(ND), SBP	1	2	0
35	EI & EB -II,(SD), BAM	1	2	0
	<b>Total</b>	<b>227</b>	<b>62</b>	<b>165</b>

Appendix 3.4.10

(Refer paragraph 3.4.10.2 at page 66)

Statement showing non-adherence to the provisions/executive instructions by the retail excise shops during physical inspection

Sl. No.	Name of the Excise District	Name of the FL Shop	Observation of Audit	
1	Sundargarh	IMFL OFF shop- Rajgangpur No.2.	a. No inspection conducted by SE/DSE; b. No inspection conducted by mobile unit; c. Glow signboard displayed in front of the shop;	
2		IMFL OFF shop- Durubaga.	a. No sign-board in Odia and rate chart is displayed; b. No inspection conducted by mobile unit; c. Glow signboard displayed in front of the shop; d. No inspection conducted by SE/DSE;	
3		IMFL OFF shop- Bisra Rd. No.1, Rourkela	a. No sign-board in Odia is displayed; b. No inspection conducted by mobile unit; c. No inspection conducted by SE/DSE; d. Glow signboard displayed in front of the shop;	
4		IMFL OFF shop- 7 & 8 Area, Rourkela	a. No sign-board in Odia is displayed; b. No inspection conducted by mobile unit; c. No inspection conducted at least once in a month by SE/DSE; d. Glow signboard displayed in front of the shop;	
5		IMFL ON shop- Pahadi Bar & Restaurant, Vedvyas, RKL.	a. No inspection conducted by mobile unit; b. No inspection conducted at least once in a month by SE/DSE;	
6		IMFL ON shop- Hotel Regency Inn, Rourkela	a. No sign-board in Odia is displayed; b. Glow signboard displayed in front of the shop; c. No inspection conducted by mobile unit; d. No inspection conducted at least once in a month by SE/DSE;	
7		OS shop- Ranibagicha, Sundargarh.	a. No inspection conducted by mobile unit; b. No inspection conducted at least once in a month by SE/DSE; c. MRP not printed in OS pouch;	
8		OS shop- Hemgiri, Sundargarh.	a. No inspection conducted at least once in a month by SE/DSE; b. No inspection conducted by mobile unit; c. MRP not printed in OS pouch;	
9		Khordha	Kharvelnagar No.2 IMFL OFF Shop	The Shop is not being inspected by the concerned IE at least once in a month The Shop is not being inspected by the concerned Charge officer at least twice in a month The Shop is not being inspected by the concerned SE/DSE least once in a month The Shop is not being inspected by the Mobile Unit of the District No Physical Stock maintained as per the account
10				Old Station Bazar, BBSR IMFL OFF Shop

Sl. No.	Name of the Excise District	Name of the FL Shop	Observation of Audit
11		Laxmisagar Chhak, BBSR IMFL OFF Shop	More than four salesman were being engaged without prior permission of the SE
			The Shop has not been inspected by the concerned Charge Officer since April 2016
			The Shop was not being inspected by the concerned SE/DSE at least once in a month
			The Shop was not being inspected by the Mobile Unit of the District
12		Rasulgarh No.1 IMFL OFF Shop	Advertisement of liquor is displayed in the premises of shop. Glow Sign Board of various Companies are also displayed.
			The Shop was not being inspected by the concerned IE at least once in a month
			The Shop was not being inspected by the concerned SE/DSE least once in a month
			The Shop was not being inspected by the Mobile Unit of the District
13		Jayadev Vihar IMFL OFF Shop	Employees of shops are being employed for more than 8 hours
			The Shop was not being inspected by the concerned IE at least once in a month
			The Shop was not being inspected by the concerned Charge Officer at least twice in a month
			The Shop was not being inspected by the concerned SE/DSE least once in a month
14		Maurya Garden Restaurant ON	The Shop was not being inspected by the concerned IE at least once in a month
			The Shop was not being inspected by the concerned Charge Officer at least twice in a month
			The Shop was not being inspected by the concerned SE/DSE least once in a month
			The Shop was not being inspected by the Mobile Unit of the District
15		Malva Milony ON Restaurant, Patia, BBSR	Account Register could not be produced Audit
			Shop is located within 500 metres from Railway Station & Bus Stand
			The Shop was not being inspected by the concerned IE at least once in a month
			The Shop was not being inspected by the concerned Charge Officer at least twice in a month
16		Hotel Swosti Premium, Jaydev Vihar	The Shop was not being inspected by the concerned SE/DSE least once in a month
			The Shop was not being inspected by the Mobile Unit of the District
			The Shop was not being inspected by the concerned SE/DSE least once in a month
			The Shop was not being inspected by the Mobile Unit of the District
17		Hotel New Marrion, Satyanagar BBSR	Account Register could not be produced Audit
			Stock could not be ascertained due to non-production of records
			Sign Board not in Oriya
			Shop was located within 200 metres from Ram Mandir, 250 metres from English Medium School & 300 metres of Central School & 100 metres from petrol pump
18	Bolangir	IMFL OFF shop- Loisingha	No sign-board and rate chart is displayed
			Employees are working more than eight hours per day
			No brand wise register is maintained
			No inspection conducts at least once in a month by Excise Inspector
19	Bolangir	IMFL OFF shop- Tusura	No inspection conducts at least once in a month by SE/DSE
			No inspection by mobile unit
			The shop is situated within 200 meters from OS distillery shop
			No Sign board in Odia is fixed in front of the shop
20	Bolangir	IMFL OFF shop No. 6 Bolangir	Employees are working more than eight hours per day
			No brand wise register is maintained
			Six persons in the Shop were engaged
			Engagement of more than four persons is not approved by the SE
21	Bolangir	IMFL ON shop-Hotel Indraprastha, Bolangir	Employees were working more than eight hours per day
			No brand wise register is maintained
			No of persons deployed is five
			No sign-board and rate chart is displayed (Bar is under construction)
			No statutory warning is displayed
			Engagement of more than four persons is not approved by the SE

**Audit Report (Revenue Sector) for the year ended March 2016**

Sl. No.	Name of the Excise District	Name of the FL Shop	Observation of Audit
22		IMFL ON shop No. 2 Bolangir	No brand wise register was maintained
			No inspection conducts at least once in a month by SE/DSE
			The shop was situated within 400 meters from Balangir Railway Station (violates Rule 34 of Odisha Excise Rule)
			No sign-board and rate chart is displayed
			No statutory warning is displayed
			Engagement of more than four persons is not approved by the SE
			Employees were working more than eight hours per day
			No restaurant was available
			No food License is available
			Shop is situated 100 meters from the Balangir daily market
23		OS shop-Loisingha	No sign-board was displayed
			No statutory warning is displayed
			Employees are working more than eight hours per day
			No inspection conducts at least once in a month by SE/DSE
24		OS shop-Bolangir	No sign-board was displayed
			No statutory warning was displayed
			Employees were working more than eight hours per day
			No inspection conducted at least once in a month by SE/DSE
			No inspection conducted by mobile unit
25	Dhenkanal	Dhenkanal No.1 IMFL OFF Shop, Mahavir Bazar	Local purchases made from individual. (04/2016- 4835 qntrs.; 05/2016 and (upto 20.05.2016) -3376 qntrs. and no transport fee paid
			Shop was running at a market place, in front of Mahavir Temple.
			The Shop was not being inspected by the concerned SE/DSE at least once in a month.
			The Shop was not being inspected by the Mobile Unit of the District
			Employees were deployed more than 8 hours per day.
			Physical stock could not be verified due to non maintenance of Brand wise register
			Brand wise daily sales account was not maintained.
26		Indipur IMFL OFF Shop	Employees of shop were employed for more than 8 hours.
			The Shop is not being inspected by the concerned IE at least once in a month.
			Physical stock could not be verified due to non maintenance of Brand wise register.
			The Shop was not being inspected by the concerned SE/DSE at least once in a month.
			The Shop was not being inspected by the Mobile Unit of the District.
27		Bhuban IMFL OFF Shop	Brand wise daily sales account is not being maintained.
			Employees of shops are being employed for more than 8 hours.
			Brand wise daily sales account is not being maintained.
			The Shop was not being inspected by the concerned SE/DSE least once in a month
			The Shop was not being inspected by the Mobile Unit of the District
			The shop was being inspected by Charge Officer concerned once in every alternate month instead of twice in a month.
28		Dakhinakali Rd IMFL OFF Shop, Dhenkanal	Physical stock could not be verified due to non maintenance of Brand wise register.
			Statutory warning is not being displayed.
			Employees of shop are being employed for more than 8 hours.
			The Shop was not being inspected by the concerned SE/DSE at least once in a month.
			Brand wise daily sales account is not being maintained.
29		Gondia IMFL OFF Shop	Physical stock could not be verified due to non maintenance of Brand wise register
			The Shop was not being inspected by the Mobile Unit of the District.
			Employees of shops were being employed for more than 8 hours.
			The Shop was not being inspected by the concerned IE at least once in a month.
			The Shop was being inspected by the concerned Charge Officer only once in a month instead of twice.

Sl. No.	Name of the Excise District	Name of the FL Shop	Observation of Audit		
30			The Shop was not being inspected by the concerned SE/DSE at least once in a month.		
			Brand wise daily sales account is not being maintained.		
			Physical stock could not be verified due to non maintenance of Brand wise register.		
		Haripur ON Shop, Dhenkanal			The Shop was running within 20 meters from MDR
					The Shop was not being inspected by the concerned IE at least once in a month.
					The Shop was not being inspected by the concerned SE/DSE least once in a month.
					The Shop was not being inspected by the Mobile Unit of the District.
					Brand wise daily sales account was not being maintained.
					Physical stock could not be verified due to non maintenance of Brand wise register.
					Employees of shop are being employed for more than 8 hours.
					The rate chart was displayed as per MRP fixed by the Government in case of OFF Shop
					Statutory warning was not being displayed.
					The shop was running like an OFF Shop, IMFL is being sold in bottles and counter is open to main road. No restaurant is available in shop premises.
The Shop was running within 70 meters from NH					
31		Bhuban, Bhadaliaposi ON Shop	The Shop was being inspected by the concerned IE once in a quarter instead of once in a month.		
			The Shop was being inspected by the concerned Charge Officer once in a quarter instead of twice in a month.		
			The Shop was not being inspected by the concerned SE/DSE at least once in a month.		
			Employees of shop were being employed for more than 8 hours.		
			Food licence could not be shown to audit.		
			The shop was running without restaurant.		
			The Shop was being inspected by the Mobile Unit of the District once in a quarter instead of once in a month.		
32		Trupti Bar & Restaurant, Bhuban	Employees of shop were being employed for more than 8 hours.		
			Brand wise daily sales account is not being maintained.		
			Physical stock could not be verified due to non maintenance of Brand wise register.		
			The Shop was being inspected by the concerned IE once in a quarter instead of once in a month.		
			The Shop was not being inspected by the concerned Charge Officer.		
33		Bhuban OS Shop	The shop was running like an OFF Shop, IMFL is being sold in bottles with MRP and counter is open to main road.		
			Employees of shop are being employed for more than 8 hours.		
			Statutory warning was not being displayed.		
			MRP and batch No./date were not printed on OS pouch sold in the Shop counter.		
			The Shop was not being inspected by the concerned SE/DSE least once in a month.		
			The Shop was being inspected by the Mobile Unit of the District once in a quarter instead of once in a month.		
No cleanliness was being maintained inside the Bhati. Water is being contaminated and polluted due to supply of water pipe through drain.					



Appendix 3.4.11

(Refer paragraph 3.4.11.1 at page 68)

Comparative Statement showing the Offer Price (OP) of various brands of Suppliers accepted by Price Fixation Committee of State during 2011-16 vis-à-vis the price offered to the neighboring State of Andhra Pradesh for the year 2014-15

Offer Price per case (12 bottles)		Offer price accepted by Odisha during 2011-16										
Brand Name	Andhra Pradesh 2014-15	2011-12	Percentage of excess than Andhra Pradesh OP 2014-15	2012-13	Percentage of excess than Andhra Pradesh OP 2014-15	2013-14	Percentage of excess than Andhra Pradesh OP 2014-15	2014-15	Percentage of excess than Andhra Pradesh OP 2014-15	2015-16	Percentage of excess than Andhra Pradesh OP 2014-15	Percentage of increase from OP of 2011-12
<b>BEER (650 ml)</b>												
Kingfisher Strong Premium	236.00	313.30	33	365.00	55	365.00	55	442.15	87	442.15	87	41
Haywards-5000	236.00	310.00	31	370.57	57	396.50	68	441.82	87	441.82	87	43
Tuborg Strong Premium	263.00	269.10	2	321.96	22	350.59	33	370.49	41	370.49	41	38
Kalyani Black-L-Pr-St	226.00	300.60	33	357.00	58	384.12	70	434.88	92	434.88	92	45
Carlsberg Elephant Ex-St Super Pre	322.00	493.46	53	516.34	60	523.17	62	610.29	90	610.29	90	24
Fosters Strong Premium	293.00	294.52		315.00	8	354.50	21	418.21	43	418.21	43	42
Tuborg Booster Strong Premium	263.00	311.36	18	321.96	22	321.96	22	457.70	74	457.70	NA	0
Budweiser Magnum Strong	298.00	470.26	58	549.34	84	671.65	125	775.00	160	775.00	160	65
Kingfisher Premium Lager	211.00	0.00	NA	235.68	12	350.00	66	405.82	92	405.82	92	0
Budweiser Premium King	298.00	0.00	NA	470.26	58	542.08	82	644.00	116	644.00	116	0
Tuborg Green	238.00	0.00	NA	336.72	41	350.59	47	370.49	56	370.49	56	0
<b>IMFL (750 ml)</b>												
McD No-1 Reserve Whisky	828.00	1395.45	69	1395.45	69	1395.45	69	1426.00	72	1426.00	72	2
Officer's Choice Whisky	568.00	794.41	40	911.00	60	911.00	60	1012.00	78	1012.00	78	27
Celebration xxx Rum	495.00	699.98	41	760.00	54	785.00	59	860.00	74	860.00	74	23
AC Neat Premier Whisky	777.00	793.62	2	902.00	16	907.18	17	1012.00	30	1012.00	30	28
Seagram's Royal Stag Pr- Whisky	1263.00	1595.82	26	1748.28	38	1751.66	39	1787.00	41	1787.00	41	12
McD No.1 CaribaPr-Gold Rum	495.00	0.00	0	1060.00	114	1060.00	114	1087.00	120	1087.00	120	0
Imperial Blue Finest Grain Whisky	832.00	905.25	9	1265.69	52	1269.07	53	1417.00	70	1417.00	70	57

### Appendix 7.1.1

(Refer paragraph 7.1.3.1 at page 95)

#### Recommendation-wise implementation of audit observations

#### 1. The centralised online data management system should be made operational on real time basis by establishing connectivity between all RTOs of the State with the STA

Sl. No.	Paragraph No.	Objection	Department's views / Reply	Status
1.	3.2.8.1	Implementation of the project	Not specific	Substantially implemented
2.	3.2.8.17	Duplication of data due to absence of real-time connectivity amongst RTOs and non-creation of central database	Not agreed	Insignificant Progress
3.	3.2.8.21	Online services	Agreed	Substantially implemented
4.	3.2.8.22	Issue of VCR vis-à-vis issue of permit and fitness by RTO Offices	Agreed	Substantially implemented
5.	3.2.8.23	Electronic system of National permit	Not agreed	Insignificant Progress
6	3.2.8.24	Non-use of hand held reader in enforcement operation	Agreed	Fully implemented

#### 2. Gaps in the mapping process may be identified and incorporated in the system

Sl. No.	Paragraph No.	Objection	Department's views / Reply	Status
7.	3.2.8.7.1	Non-mapping of business process rules for omnibus	Agreed	Fully implemented
8.	3.2.8.7.2	Non-mapping of business process in case of private service vehicles	Agreed	Insignificant Progress
9.	3.2.8.7.3	Non-mapping for registration for cranes/hydra etc.	Agreed	Insignificant Progress
10.	3.2.8.7.4	Delayed mapping in case of One Time Tax (OTT) for certain categories of Goods carriages	No reply	Fully implemented
11.	3.2.8.15.1	Irregularities in entry of engine/chassis numbers against the vehicle	Agreed	Insignificant Progress

#### 3. Proper input and validation controls should be put in the system for authentication of the data

Sl. No.	Paragraph No.	Objection	Department's views / Reply	Status
12.	3.2.8.8	Incorrect data migration to computerised system (Vahan) and improper validation of legacy data	Agreed	Insignificant Progress
13.	3.2.8.9.1	Incomplete database	No reply	Insignificant Progress
14.	3.2.8.9.2	Data validation	Agreed	Insignificant Progress
15.	3.2.8.9.3	Existence of multiple driving licenses	Agreed	Insignificant Progress
16.	3.2.8.10.1	Input/validation control (Vahan) Incomplete database	Agreed	Insignificant Progress
17.	3.2.8.10.2	Lack of data validation	Agreed	Insignificant Progress
18.	3.2.8.11	Non-continuity of Registration Numbers	Agreed	Fully implemented
19.	3.2.8.12	Irregularities in entry of engine/chassis	Agreed	Insignificant

<i>Sl. No.</i>	<i>Paragraph No.</i>	<i>Objection</i>	<i>Department's views / Reply</i>	<i>Status</i>
		numbers against the vehicle		Progress
20.	3.2.8.13	Registration of vehicles under invalid insurance cover note	Agreed	Fully implemented
21.	3.2.8.18	Irregular issue of DLs without conducting driving test in the appropriate class/type of vehicles	Agreed	Insignificant Progress

**4. Appropriate supervisory controls over the work entrusted to the concessionaire should be put in place**

<i>Sl. No.</i>	<i>Paragraph No.</i>	<i>Objection</i>	<i>Department's views / Reply</i>	<i>Status</i>
22.	3.2.8.14	Manual intervention for levy and collection of tax	Agreed	Insignificant Progress
23.	3.2.8.2	Partial utilisation of the processing capability of "Vahan" and "Sarathi" software	Agreed excepting enforcement	Substantially implemented
24.	3.2.8.3	Deficiencies in the contract agreement made with SCL	Agreed	Insignificant Progress
25.	3.2.8.4	Delay in issue of SCBDL/SCBRC, non-adherence to the performance standards and non-imposition of late fine	Agreed	Fully implemented
26.	3.2.8.5	Short engagement of IT personnel	Agreed	Fully implemented
27.	3.2.8.6	Irregular collection of service charges by the concessionaire	Not Agreed	Fully implemented
28.	3.2.8.15.2	Inordinate delay in allotment/assignment of choice numbers	Agreed	Fully implemented
29.	3.2.8.16	DL/RC in smart card without activation/authentication	Agreed	Fully implemented
30.	3.2.8.19	Lack of documentation	Not agreed	Fully implemented
31	3.2.8.20	System security and password policy	Not agreed	Fully implemented

**ABSTRACT OF IMPLEMENTATION OF OBSERVATIONS**

Fully implemented:	12
Substantially implemented:	04
<u>Insignificant implementation:</u>	<u>15</u>
<b>Total</b>	<b>31</b>

# **Glossary**



## Glossary of Abbreviations

### A

AA	Assessing Authority
ACCT	Assistant Commissioner of Commercial Taxes
AEP	Annual Excise Policies
ARTO	Additional Regional Transport Office
ASIE	Assistant Sub-Inspectors of Excise
ATN	Action Taken Note
AVR	Audit Visit Report

### B

BOE Act	Bihar and Odisha Excise Act
BER	Board's Excise Rules
BL	Bulk Litre
BM	Branch Manager
BOE Act	Bihar and Odisha Excise Act
BoR	Board of Revenue

### C

CAAA	Certified Audited Annual Accounts
CCT	Commissioner of Commercial Taxes
CDCR	Consolidated Demand Collection Register
CS	Country Spirit
CST	Central Sales Tax
CT	Commercial Tax
CTO	Commercial Tax Officer

### D

DAC	Departmental Audit Committee
DCCT	Deputy Commissioner of Commercial Taxes
DCR	Demand Collection Register
DDM	Deputy Director of Mines
DEO	District Excise Office
DER	Draft Excise Rules
DIG	Deputy Inspectors General
DL	Driving Licence
DLECC	District Level Excise Co-ordination Committee
DSE	Deputy Superintendent of Excise
DSR	District Sub-Registrar

### E

EAL	Excise Adhesive Label
EC	Excise Commissioner
ED	Excise Duty

EDC	Excise Deputy Commissioner
ENA	Extra Neutral Alcohol
EP	Exclusive Privilege
ET	Entry Tax
EVC	Excise Verification Certificate

**F**

FL	Foreign Liquor
FMFL	Foreign Made Foreign Liquor

**G**

GCV	Gross Calorific Value
GER	Gate Entry Register
GoO	Government of Odisha
GRN	Goods Receipt Note
GRR	General Registration Register
GTO	Gross Turnover

**I**

IAW	Internal Audit Wing
IE	Inspector of Excise
IGR	Inspector General of Registration
IMFL	India Made Foreign Liquor
IR	Inspection Report
IS Act	Indian Stamp Act
ITC	Input Tax Credit

**J**

JCCT	Joint Commissioner of Commercial Taxes
JIG	Joint Inspector General

**L**

LPL	London Proof Litre
LSP	Liquor Sourcing Policy

**M**

MC Rules	Mineral Concession Rules
MCD Rules	Mineral Conservation and Development Rules
MCL	Mahanadi Coalfields Limited
MF	Mohua Flower
MGQ	Minimum Guaranteed Quantity
MMDR Act	Mines and Minerals (Development and Regulation) Act
MoC	Ministry of Coal
MRP	Maximum Retail Price
MV Tax	Motor Vehicle Tax

**N**

ND	Northern Division
NIC	National Informatics Centre

**O**

OCP	Open Cast Project
OER	Odisha Excise Rules
OET	Odisha Entry Tax
OIC	Officer in Charge
OMVT Act	Odisha Motor Vehicles Taxation Act
OPDR	Odisha Public Demands Recovery Act
ORR	Off-Road Register
OS	Out Still
OSBC	Odisha State Beverages Corporation
OST	Odisha Sales Tax
OVAT	Odisha Value Added Tax

**P**

PA	Performance Audit
PAC	Public Accounts Committee
PAG	Principal Accountant General
PFC	Price Fixation Committee
PSV	Private Service Vehicle

**R**

R&DM	Revenue & Disaster Management
RA	Registering Authority
RDC	Revenue Divisional Commissioner
RF	Registration Fee
ROM	Run of Mine
RS	Rectified Spirit
RTO	Regional Transport Officer

**S**

SCBRC	Smart Card Based Registration Certificate
SD	Stamp Duty
SE	Superintendents of Excise
SED	State Excise Duty
SEZ	Special Economic Zone
SIE	Sub-Inspectors of Excise
SR	Sub-Registrar
STA	State Transport Authority

**T**

TC	Transport Commissioner
----	------------------------



TCS	Tax Collected at Source
TRO	Tax Recovery Officer
TTO	Taxable Turnover
	<b>U</b>
UHV	Useful Heat Value
	<b>V</b>
VATIS	Value Added Tax Information System

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